1791.

SUPREME COURT OF THE UNITED STATES.

No. 176.

JAMES B. PECK, WM. HEILMAN AND EDWIN H. FRISMUTH, OWNERS OF THE STEAMSHIP COLUMBUS, APPELLANTS,

vs.

JOHN SANDERSON, LIBELLANT.

APPEAL FROM THE CIRCUIT COURT U. S. FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

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Pleas before the honorable the judges of the circuit court of the United States for the eastern district of Pennsylvania, in the third circuit: of October session, 1853, No. 5.

It is thus contained:

Pleas before the honorable the judge of the district court of the United States in and for the eastern district of Pennsylvania.

It is thus contained:

Be it remembered that on the seventh day of February, A. D. 1849, J. Murray Rush, esquire, one of the proctors of said court, appears in said court, and exhibits the libel and complaint of John Sanderson, owner of the Schooner Mission, against the Steampacket Columbus, which being read and filed is in the words following, to wit:

SANDERSON
vs.
STEAMER COLUMBUS. } Collision.

Henry J. Williams and J. Murray Rush, esqrs., for libellant.
Edward Waln, esqr., for respondents.

Libel.

To the honorable John K. Kane, judge of the district court of the United States within and for the eastern district of Pennsylvania:

The libel and complaint of John Sanderson, of Tyrell county, North Carolina, owner of the Schooner Mission, of 112 25-95 tons, late of Edenton, North Carolina, against the Steampacket Columbus, whereof James B. Peck now is, or late was master and part owner, her tackle, apparel and furniture; and also against the said James B. Peck in a cause of collision, civil and maritime; and thereupon the said Sanderson alleges and articulately propounds as follows:

I. That the libellant was the owner of the Schooner Mission, which was a tight, staunch and well-built vessel, of 112 25-95 tons, having been built of the best white oak, on Alligator river, Tyrrel county, North Carolina, anno Domini eighteen hundred and forty-seven, at a cost of $6,000.

II. And the libellant further alleges, that afterwards, to wit, on the 17th of October, 1848, the said schooner left the port of Edenton, (and at) loaded with shingles, for the West Indies, and after touching for two days at the Island of Antiqua, proceeded to Guadaloupe, where she arrived on or about the 21st or 22d day from her departure from Edenton, and sold her cargo for the sum of $1,369, being at the rate of $3 70 per thousand.

III. And the libellant further propounds, that afterwards, to wit, on or about the 11th of November, 1848, the said schooner cleared from Guadaloupe, in ballast, in fine condition, being tight, staunch and well made, commanded by Captain John Cobb, (the same captain and crew which she had when she left Edenton, North Carolina,) and proceeded to the island of Rumkey, to obtain a cargo of salt, and that after taking on board 2,500 bushels cleared for Edenton, North Carolina.

IV. The libellant further propounds, that the captain of the said schooner was an able and experienced seamen, having followed the sea for twenty years and upwards as the captain of a vessel, and that he deserved and enjoyed the confidence of all to whom he was known as an officer, to whom the safety of a vessel might be confided with entire security; and that the crew consisted of two able seamen, and one ordinary seaman, and the mate and cook, all of whom were careful, competent men.

V. The libellant further propounds, that after being about seven days out from Rumkey, on Sunday morning, the 3d of December, 1848, the wind being about northwest, and as this libellant is informed in latitude 33½° and longitude 76.48°, within the ebb and flow of the tide, and within the admiralty and maritime jurisdiction of this honorable court, when the said schooner was close hauled to the wind, which then came over the larboard bow, and she was therefore heeling to starboard, and consequently the view to larboard was free and unobstructed, while that to starboard was interrupted by the sails of the schooner, the said vessel going at the rate of five miles an hour, with a clear starlight, she was suddenly run down by the Columbus, going ahead under a press of steam and with the wind free, and crushed in her starboard bow. The blow was so sudden and violent that the said schooner sunk almost immediately, and every soul on board of said schooner perished except an able seaman, Wilson G. Burgess, who saved himself by clinging to the bow ropes of the Columbus.

This libellant further alleges, that the said schooner was manned and managed with all due and proper caution, and with ordinary care. That she was skilfully steered by the said Wilson G. Burgess, and that she had a hand on the forward watch; but that the said steamer, as he is informed, had no signal-lights, and did not, as this libellant is informed was her duty by maritime law and usage, give way to the said schooner, which was close hauled and on her larboard tack, the said steamer being under full steam and having the wind free.

VI. This libellant further propounds and alleges, that he is informed and believes that he can prove to this honorable court, that the said destruction of the Schooner Mission was through no fault or neglect of hers, but has arisen solely from the fault and neglect of the said Columbus in not giving way, as was her duty, when she approached the said schooner, and in neglecting her signal-lights; either of which faults on the part of the Columbus is, as this libellant is informed, and here alleges, an explanation of the disaster which happened to the Schooner Mission.

VII. This libellant further propounds and alleges, that at the time of the sinking of the said schooner by the said Columbus, she was worth the sum of $4,800, her first cost having been $6,000, when finished in July, 1847. That the value of the cargo of salt and the specie on board, the proceeds of the sale of the shingles, was less the custom-house dues on the salt the sum of $1,900, making a total loss to this libellant of $6,700, with interest from December 10, 1848, the period at which the said schooner would have made the land.

VIII. That all and singular the premises are true, and within the admiralty and maritime jurisdiction of this honorable court, in verification whereof, if denied, the libellant craves leave to refer to the depositions and other proofs to be by him exhibited in this cause.

Wherefore the libellant prays that process in due form of law, according to the course of courts of admiralty and maritime jurisdiction, may issue against the said Steamer Columbus, her tackle, apparel, and furniture, and also against the said James B. Peck, master and part owner.

That the said James B. Peck may be cited to appear and answer upon oath all and singular the matters so articulately propounded, and that this honorable court would be pleased to pronounce for the damages aforesaid, and for such other relief to the libellant as to law and justice shall appertain; and also to condemn the said steamboat and the parties intervening therefor in costs.

JOHN SANDERSON.
J. MURRAY RUSH,
Proctor for libellant.

John Sanderson, being duly sworn, saith: that the facts set forth in this libel, so far as derived from his own knowledge, are just and true; and so far as derived from the knowledge of others, he believes them to be true.

JOHN SANDERSON.

Sworn and subscribed, this 7th Feb., 1849, before me—
CHAS. F. HEAZLITT.

Endorsed.

Let process issue as prayed, on security *sec. reg.*, stip'n $9,000.
J. K. KANE.

7th Feb., 1849.

Filed 7th Feb., 1849.

Afterwards, to wit, on the eighth day of September, A. D. 1853, leave is granted to libellant to amend his libel by alleging the ownership of the shingles and salt, referred to in said libel, to be in him, the libellant, the said John Sanderson.

Claim of owners.

To the honorable John K. Kane, judge of the district court of the United States within and for the eastern district of Pennsylvania.

And now, February 9, 1849, James B. Peck, master of the Steamer Columbus, intervening for his interest and that of the owners in this case, appears before this honorable court and makes claim to Steamer Columbus, her tackle, apparel, and furniture, as the same are attached by the marshal under process of the court, at the instance of John Sanderson.

And the said James B. Peck avers, that he is, together with William Heilman and E. H. Frismuth, the true and lawful owners of the said Steamer Columbus, and that he is the master and bailee of the said steamer for the owners.

And he further avers, that the melancholy accident set forth in the libel was entirely owing to the fault and negligence of the master and crew of the Mission, and not in any wise attributable to any neglect or misconduct of the master, owners, or crew of the Columbus; which he fully believes he can satisfactorily prove.

And he further avers, that the Columbus is advertised to resume her trips to and from Charleston, and that her seizure by the libellant, and the unjust detention of her by such seizure, subjects her owners to great daily damage. Wherefore he prays to be admitted to defend accordingly, and that the libellant be ordered to enter into stipulations to respond in damages to the owners of the Columbus.

J. B. PECK.

Sworn in open court, Feb. 9, 1849.

CHAS. F. HEAZLITT,
Clk. dis. ct. U. S. p. t.

Filed 9th Feb., 1849.

Endorsed: Claim of owners.

And thereupon, to wit, on the thirteenth day of February, 1853—prayer for damages dismissed.

And now, to wit, on the second day of March, A. D. 1849, Ezekiel Lincoln, and James B. Peck, enter into a stipulation in the words following, to wit:

UNITED STATES,
Eastern district of Pennsylvania.

Be it remembered, that at a special district court of the United States, holden at Philadelphia, in and for the eastern district of Pennsylvania, on the second day of March, A. D. 1849, and in the seventy-third of the independence of the said United States, before the honorable John K. Kane, judge of said court, comes Ezekiel Lincoln and James B. Peck, who freely and voluntarily submitting themselves to the jurisdiction of the said court, acknowledge themselves to be jointly and seve-

rally indebted unto John Sanderson, in the sum of nine thousand dollars, lawful money of the United States, to be levied of the goods and chattels, lands and tenements of the said Ezekiel and James B., to the use of the said John Sanderson. Upon condition, that whereas a suit is now pending in the said court for collision, wherein the said John Sanderson is the libellant, against the Steamer Columbus, Peck, master, and the said James B. Peck, William Heilman, and E. H. Frismuth, claimants: Now, if the said claimants shall well and truly abide by all orders, interlocutory or final, of the said court, and of any appellate court, in which said suit may hereafter be depending, and shall fulfil and perform the judgment or decree which may be rendered in the premises, and also pay all such costs and charges as shall be ordered and adjudged to be paid on their part, then this stipulation shall be void; otherwise in force, and execution may issue by virtue thereof at one and the same time, against any or all the parties to this stipulation.

EZEKIEL LINCOLN,
JAMES B. PECK.

Taken, acknowledged and subscribed in open court, the day and year above written. THOS. L. KANE,
Cl'k district ct.

The above named Ezekiel Lincoln, being duly affirmed, deposes and says, that he is permanently a householder within this district; that he is worth the sum of nine thousand dollars after payment of his just debts and liabilities; and the said James B. Peck also saith, that he is worth $9,000 in like manner, &c.

And thereupon it is ordered by the court, that a writ of restitution issue to the marshal, directing him to restore the said steamer to the said claimant, upon payment to him of his costs, and the necessary expenses by him incurred.

Respondent's answer.

EASTERN DISTRICT OF PENNSYLVANIA.

To the honorable John K. Kane, judge of the district court of the United States in and for the eastern district of Pennsylvania.

And now, James B. Peck, William Heilman and Edwin H. Frismuth, of Philadelphia, in the district aforesaid, owners of the Steamship Columbus, appear before this honorable court, and for answer to the libel of John Sanderson against the said Steamer Columbus, her tackel, apparel and furniture, and against all persons intervening for their interest, allege and articulately propound as follows:

First. That the respondents are the owners of "The Columbus," but that they have no knowledge whatever of the several allegations of the libellant, set forth and asserted in the first, second, third and fourth articles of his said libel, and pray that this honorable court will require

strict proof of each and all of them; because, from parts of such allegations which they have had the means of examining and ascertaining, they assert and believe that they are unfounded in fact, and evince a heedlessness of allegation and assertion, which oblige these respondents to require proof thereof.

Second. And these respondents deny, further, the allegations of the fourth article of said libel, that the master and crew of the ill-fated schooner were competent seamen, and without more reflection upon the conduct of those who were involved with the schooner, in this most melancholy catastrophe, they beg leave to refer to the testimony to be adduced on this point of the case.

Third. That the Steamer Columbus, plying at regular and stated times between Philadelphia and Charleston, S. C., left her birth at Philadelphia on her regular day and hour; was on the morning of Sunday, the 3d day of December, 1848, at 2 o'clock in the morning, steaming for Charleston, with a large number of cabin and steerage passengers. She was close hauled; the wind was not free as is falsely alleged, but was west-northwest, and variable, so that her square-sails could not be spread. The night was starlight, a heavy sea rolling, and the position of the Columbus was latitude 34° 28', and longitude 76° 19' W., and about ten miles W. and E. of the Cape of Lookout shoals. She was not under a press of steam, but feeling her way by the lead, on a south-westerly course, showing her signal lamps lighted and burning, when the man on the watch on the forecastle cried, "a sail ahead."

The officer of the deck of the Columbus was at his usual station on the engine house, which is about ten to fifteen feet above decks, and about one-third of the length of the steamer from the bow. On the cry of "sail ahead," he immediately ordered the engine to be stopped, which was as promptly obeyed, jumped down and ran forward to see where the sail was. The schooner proved to be "the Mission," about two points on the larboard bow of the Columbus, and steering right at her, close hauled, which presented her sails edgewise to the eye of the watch of the Columbus, and prevented her being descried until within two hundred yards distance. The engine was immediately reversed, and the Columbus stopped and forthwith backed in the water. The schooner did not alter her course at all, but ran right under the bows of the Columbus, where the wind and her sails kept her close, and the heavy pitching of the Columbus, and her iron bowsprit shroud rode her down and cut like a saw.

Being laden with salt, she sunk almost immediately. Every human means were resorted to, by the officers and crew of the steamer, to rescue the souls on the schooner. Every officer and man was at his post and vigilant to do his duty, while it is painful to be obliged to record that the officers and crew of the ill-fated schooner were most culpably careless in running into land, on sounding, in the beaten track of all steamers and coasting vessels, with their position uncertain, from not having had an observation for several days, and with all the officers

on board the schooner below at the time of the accident. The melancholy catastrophe is alone attributable to the absence of ordinary care on the part of the crew of the schooner, as she might have easily passed on either side of the Columbus, without touching her.

Fourth. And these respondents do deny entirely and emphatically, the several allegations contained in the fifth, sixth and seventh articles of the said libel, and pray that the libellants may be compelled to substantiate the same by proof, and that all and several the allegations tending to exculpate the officers and crew of the Mission from want of care, or to inculpate those of the Columbus, are untruly alleged, and that the owners of the Columbus are not, therefore, liable to pay any of the damage by the libellant sustained.

Fifth. That all and singular the premises are true, in verification whereof, if denied, these respondents crave leave to refer to the depositions and other proofs, to be by them exhibited in this cause. Wherefore they pray, that this honorable court will be pleased to pronounce against the libel aforesaid, and to condemn the libellant in costs, and to award to these respondents damages, for the illegal seizure and detention of their ship, and their expenses incurred in this suit, and otherwise justice to administer in the premises.

WILLIAM HEILMAN,
E. H. FRISMUTH,
JAMES B. PECK,
By their attorney,
WILLIAM HEILMAN.

EDWARD WALN,
Proctor.

Whereupon the libellants reply generally.

In the district court of the United States, in and for the eastern district of Pennsylvania, in admiralty.

JOHN SANDERSON
vs.
THE STEAMER COLUMBUS. } Collision.

The President of the United States, to W. H. Wilder, esq.

Know ye, that in confidence of your prudence and integrity, we have given unto you, and by these presents do give unto you, full power and authority, in pursuance of a rule lately made in the district court of the United States in and for the eastern district of Pennsylvania, in a certain plea civ. et mar. therein depending, wherein the said John Sanderson is libellant, and the Steamer Columbus and owners respondents, to call bofore you, at a certain day and place, by you for that purpose to be appointed, all and every person and persons who may be named to you by the said libellant as witnesses in the said action, and then and there to examine them, on their respective oaths and affirmations, on certain interrogatories hereunto annexed, touching

the premises, and to reduce their testimony to writing; and when you shall have so done you are to send the same to the said district court, closed up, and under your seals, plainly and distinctly set, together with this writ.

Witness the honorable John K. Kane, judge of said court, at Philadelphia, this fourteenth day of June, A. D. 1849, and in the seventy-third year of the independence of the said United States.

[L. S.]

THOMAS L. KANE, *Clerk district court U. S.*

In the district court of the United States in and for the eastern district of Pennsylvania, in admiralty.

SANDERSON
vs.
THE STEAMER COLUMBUS.

Interrogatories to be propounded to witnesses to be produced, sworn, or affirmed, and examined on behalf of the libellant, under a commission to Edenton, North Carolina.

Interrogatory first.—Do you know John Sanderson, the libellant? Do you know who was the owner of the schooner Mission when she sailed from Edenton, on or about the 17th October, 1848? If aye, state if you know what was the value of the schooner when she left said port of Edenton. State when and where she was built, and at what cost she she was built, and what kind of cargo she had on board, and what was its value.

Interrogatory second.—Look at the document produced and purporting to be under seal from the custom-house of Edenton. Do you know whether the said document is a certified copy from the said custom-house at Edenton, and of the register of the schooner Mission at that port?

Interrogatory third.—Do you know for what her cargo sold? If aye, state when it was sold, and for how much.

Interrogatory fourth.—Do you know what was the market price of salt from Rumkey, in December, 1848, at Edonton, North Carolina; and what was the usual market price, per bushel, of salt in that State in December, 1848?

Interrogatory fifth.—Did you know Capt. Cobb? If yea, state what was his age. Where did he reside when on shore? Did you know his character for seamanship? If aye, state what it was for as long a time as you have known him. State all your knowledge in this particular as if you were particularly interrogated thereon.

Interrogatory sixth.—Do you know any other matter or thing material to the libellant? If aye, state it as fully and completely as if particularly interrogated thereon.

J. MURRAY RUSH, *Proctor for libellant.*

1849, June 14.—A true copy from the original filed.

THOMAS L. KANE,
Clerk district court U. S.

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SANDERSON
vs.
THE STEAMER COLUMBUS.

Cross-interrogatories on behalf of respondents to witnesses, to be produced, &c., on the part of the libellant, under a commission to Edenton, N. C.

1. What is your age and occupation, and how long have you followed the same; where do you reside, and how long have you so resided there?

2. How long have you known John Sanderson; has your acquaintance been merely personal, or has it been an acquaintance growing out of business or dealings together? If yea, state what such dealings were, when they ended, and whether they had any reference to any transaction in which the schooner "Mission," her earnings or expenses, had any connection.

3. If you have answered the first interrogatory in chief in the affirmative, that John Sanderson was the owner of the "Mission" in October, 1848, then state fully and in detail, how you know such allegation, and who informed you so, and whence you derived such knowledge; who he bought her from, if he ever did buy her; what he paid for, and when, and whether he paid money or merely money's worth, as trade or exchange, and what quantity of each; and whether you were present and saw such purchase or payment, and when and where it took place.

4. When did the said John Sanderson become the sole owner of the Mission; if he was the only owner; if others were jointly interested with him in her? State when they ceased to be so jointly interested with him, and what their interest was; whether as part owner, pledgee, mortgagee, and how otherwise; state the same fully and in detail.

5. State whence you derive any knowledge which enables you to state at what cost the "Mission" was built, and what she was worth in October, 1848. Did you ever examine her minutely; did you ever own her; if so, who did you sell her to, and for how much, and what were the terms of sale. State her tonnage, her measurement in breadth of beam, length, depth of hold, draught of water, kind of deck, flush or otherwise, whether she was coppered, copper-fastened, sheathed, or which of them, and when such coppering or sheathing was put on, her age, her rig, and condition of her rigging, and how long it had been used; of what kind of timber, if you know, she was built; how she rated at the insurance offices, and whether she was or not, insured in December, 1848, and for how much.

6. State whence you derive any knowledge which will enable you to state the kind of cargo she may have had on board when she left Edenton in October, 1848; how can you state its quantity and quality, and its value; state the exact amount of cargo so laden, and how you know its quantity; did you lade or help to lade it; and state the day she sailed from Edenton, N. C., and where she was bound in October, 1848.

7. State fully your means of knowledge of the matter inquired about in the third interrogatory in chief, which enables you to answer it. Did you make sale of the cargo; and if so, were the proceeds, or any part of it, paid to you? Have you had any information or talk with Mr. Sanderson or any one else; and if so, who, when, and where, relative to your being examined as a witness in this case; and if yes, what it was?

8. Did you buy or sell at Edenton, in December, 1848, any salt from Rumkey? If yes, state the number of such sales or purchases, when made, the prices of each transaction, the quantity and quality of the salt, and the terms of sale, and how you know such salt was Rumkey salt. Did you make any purchases or sales of salt in December, 1846, 1847 and 1848? If yes, state the quantities, prices, qualities, dates and terms of such sales, and what is the difference in price between salt imported in bags and in bulk.

9. How long had you known Captain Cobb; how long had he sailed out of Edenton; how long had he sailed the "Mission" prior to October, 1848; how long had he followed the sea, and what voyages had he made? Did you ever sail with him; if so, in what capacity, and when, and where to, and who did you ever hear speak of his seamanship; how long prior to October, 1848, did he reside at Edenton, N. C.?

10. Are you in any way connected with this lawsuit against the Steamship Columbus; are you in any way interested in the result, or were you in any way interested in the "Mission," her cargo, or connected with any one on board of her in October, November or December, 1848?

11. Do you know any fact, matter, or thing, which, though not inquired of in these cross interrogatories, is of consequence, should be known to, or material to the respondents? If you do, state it, frankly and fully, as if you had been particularly asked all about it.

EDWARD WALN,
Proctor for respondents.

1849, June 14. A true copy from the original filed.

THOMAS L. KANE,
Clerk district court U. S.

To the honorable the judge of the district court of the United States, in and for the eastern district of Pennsylvania.

By virtue of the annexed commission to me, William H. Wilder, directed, I have this, the 10th day of July, A. D. 1849, at the office of Augustus Moore, esq., in the town of Edenton, in the State of North Carolina, proceeded to take the depositions of Joseph A. Spruill, and Jesse Herrington, and John Bonshell, witnesses, also James E. Norflut, witnesses produced on the part of the libellant, in the suit depending in the said court, wherein John Sanderson is the libellant, and the Steamer Columbus and owners are respondents. The said witnesses

being first duly sworn on the Holy Evangelists of Almighty God, depose and say, in answer to the interrogatories and cross interrogatories hereto annexed, as follows, to wit:

James E. Norflut, witness first examined.

Interrogatory first.—In answer to first interrogatory, the witness states as follows:

I did not know Mr. Sanderson until this day, nor do I know who was the owner of the Schooner "Mission" on the 17th October, 1848. I did not know said vessel, nor her value, nor do I know where she was built; at what cost, what kind of cargo she had on board, or its value.

Interrogatory second.—The said witness answers as follows, to wit: The annexed document, purporting to be under the seal of the collector of the customs at Edenton, is a certified copy from the collector of said port, of the registry of the Schooner "Mission" at that port. That I am at present the collector of said port, having been appointed to said office in March last, and the certified copy is under my hand and seal of office.

Interrogatory third.—I do not know for what the cargo of said vessel sold.

Interrogatory fourth.—I do not know what was the market price of salt, from Rumkey, or any other place, in the month of December, A. D. 1848, at Edenton, North Carolina.

Interrogatory fifth.—I did not know Captain Cobb, his age, nor place of residence, nor did I know anything of his character as a seaman.

Interrogatory sixth.—I know nothing further material to either of the respondents, &c.

Answer to cross interrogatories.

Interrogatory first.—I am thirty-six years of age, and I am the collector of the port of Edenton, having been appointed in March last, and entered upon the discharge of the duties thereof on the first of May last. I am a resident of the town of Edenton, where I was born, and where I have always resided, except for about six years of my life.

Interrogatory second.—I have answered the same in the first interrogatory.

Interrogatory third.—I have answered that in answer to the first interrogatory.

Interrogatory fourth.—I know nothing of the ownership of said Schooner "Mission," never having known the vessel, or those connected with her.

Interrogatory fifth.—I know nothing of the kind and description of the Schooner "Mission," except what is set forth in the copy of the register before referred to, and made a part of my deposition.

Interrogatory sixth.—I know nothing of the cargo which might have been on board of said vessel in October, A. D. 1848.

Interrogatory seventh.—I have answered the same in part in answer

to the third interrogatory. Mr. Sanderson called upon me this morning, which was the first time I ever saw him to know him, and requested me to attend at Mr. A. Moore's office, to prove the copy of the registry of the Schooner "Mission;" this is the only conversation that I ever had with Mr. Sanderson.

Interrogatory eighth.—I was not connected in December, 1848, with any transactions in the purchase of salt or sale of the same, nor in either of the years of 1846 or 1847.

Interrogatory ninth.—I have answered the same in my answer to the fifth interrogatory.

Interrogatory tenth.—I am in no way connected with this lawsuit against the Steamship Columbus; I am not, nor ever have been interested in the result of the suit, or in the Schooner "Mission" nor her cargo, nor connected with any person on board of her in October, November, or December, A. D. 1848.

Interrogatory eleventh.—I know of nothing more that is material to the respondents.

JAMES E. NORFLUT.

Joseph A. Spruill, the second witness examined, to the interrogatories and cross interrogatories hereto appended.

Interrogatory first.—I know John Sanderson, the libellant, and he was the owner of the Schooner "Mission," when she sailed from Edenton, on or about the 17th October, A. D. 1848. I think said vessel, when she left the port of Edenton, was worth about five thousand dollars. She was built in the county of Tyrrell, in the State of North Carolina, and was launched in the summer of 1847, in the month of June, I think. I frequently saw her when she was being built, as I only lived about a half a mile, and saw her frequently after she was built, and I think she must of cost at least six thousand dollars, when she was ready for sea.

Interrogatory second.—I know nothing of the document referred to in the second interrogatory.

Interrogatory third.—I know nothing of the cargo, or the sale of the same, only what I have heard.

Interrogatory fourth.—In November, 1848, I made a sale of a cargo of Turk's Island salt, which is understood to be worth about the same as that from Rumkey, to be delivered in December of that year, at thirty-one and a quarter cents. At the time of the delivery of the cargo that I sold, Turk's Island salt had risen to thirty-three cents. The cargo to which I refer I sold in Tyrrell, in the same district as that of Edenton, and the price at the two places, so far as I know, I believe to be the same.

Interrogatory fifth.—I knew Captain Cobb intimately for the last twelve or fifteen years. I think he must of been some forty-five years of age. When I first knew him he resided in Elizabeth city, from which place he moved to the adjoining county of Camden; and for a part of the time he lived in that county, he had charge of one of the

government light-boats. After he quit said boat, he again resumed his former occupation of following the seas, and continued it until he was lost; and he also continued to reside in the said county of Camden up to the time of his being lost. I knew well his character as a seaman, and for as long time as I knew him, it was high; he was universally considered by all that knew him to be a skilful seaman, and a faithful, industrious commander. When I first knew him he was the master of a vessel, and continued to be so whenever he went to sea.

Interrogatory sixth.—I know no other thing or matter material to the libellant, unless it is material that I should state the quantity, or how much cargo, she would carry. I think she would carry thirty-five hundred bushels of salt, without being loaded deep.

Answers to cross interrogatories.

Interrogatory first.—I am thirty-nine years of age; and at this time, and have been for about three years past, engaged in getting and shipping cypress lumber; previous to that time I was engaged in going to sea. At this time I reside in the town of Plymouth, in the county of Washington, and in State of North Carolina. I moved to that place in January, 1848, from the adjacent county of Tyrrell.

Interrogatory second.—I have known John Sanderson at least for nine years. My acquaintance with him first was merely personal, but afterwards it was of a business character, both in buying of and selling to him; and for a part of the time I had charge of a vessel of his called the Mary T. Sanderson. Our business transactions can hardly be said to have ended yet; but none of our transactions have had any reference to the Schooner Mission, her earnings or expenses.

Interrogatory third.—I lived near Mr. Sanderson when the Schooner Mission was being built, and was frequently there when the work was going on. I knew that she was built for Mr. Sanderson, and was his when she was ready for sea, and was always reputed to be his property. I further know that John Sanderson furnished cargoes for her, and exercised all other acts of ownership over her, which any owner does over a vessel which he does not command as captain.

Interrogatory fourth.—The said vessel was built, as before stated, by or for John Sanderson, in 1847, and he was the sole and absolute owner of her.

Interrogatory fifth.—I have for a number of years been acquainted with vessels, by owning and commanding them. I have bought and sold vessels. I lived near where the Mission was built; saw her frequently when she was being built, when she was first ready for sea, and frequently afterwards, and I examined her very minutely. I never owned her, nor had I any interest in her whatever. I cannot state what her tonnage was, but have understood that she was one hundred and twelve tons. I have referred to the register which is made part of the deposition of James E. Norflut, and I believe she is therein correctly described. She had a flushed deck; she was not coppered but iron fastened, nor was she sheathed. She was launched in the sum-

mer, 1847. Her rigging was all new when it was put on, and was completed in August, 1847. Her frame and bottom were of the best white oak timber, and her deck and beams of pine; and was what is styled a white oak vessel. I do not know how she was rated at or in the insurance office, nor whether she was insured in December, 1848, or not.

Interrogatory sixth.—I have no knowledge of her cargo, or its value, except as I learned of John Sanderson, and his brother, and perhaps others. From Mr. Sanderson I learned, that she had in her three hundred and seventy odd thousand shingles, which were worth one dollar and seventy cents per thousand—my brother having sold a cargo about that time for that price. I did not load or help load said vessel. I cannot state the day she left the port of Edenton, nor of my own knowledge the place to which she was bound.

Interrogatory seventh.—I have no means of knowing the matters inquired of in the third interrogatory, but as there stated. I did not make sale of the cargo, nor receive the proceeds or any part of them. Some time ago, how long I cannot state distinctly, Mr. Sanderson informed me that he would want to call upon me as a witness in this case; in that conversation, he stated that he should want me to give my evidence of the value of the vessel and of the price of salt, as he knew I was well acquainted with the vessel and had dealings in salt.

Interrogatory eighth.—I neither bought or sold salt in Edenton, in December, 1848. In 1846 and 1847, I was a part owner of a vessel that traded to the West Indies, which brought in some of her return cargoes of salt, the sales of which we intrusted to the captain; but I cannot state the prices at which he sold it, and I have no papers at hand to which I could refer for information. I had no other salt transaction in 1848, but the one stated in my examination in chief. I do not know the difference in price of salt imported in bags or bulk, as all the importations that I ever made was in bulk.

Interrogatory ninth.—I have known Captain Cobb, as stated in my answer to interrogatory fifth, the last twelve or fifteen years; I never knew him to sail from the port of Edenton until he took charge of the "Mission;" the last voyage upon which he started in the fall of 1848, was the first voyage that he ever had command of the "Mission." When I first knew him he was commander of a vessel; I cannot state the number of voyages he made, but he was engaged principally in sailing from Elizabeth city, North Carolina, to the West Indies. I never sailed with him; I have heard a great many persons speak of his seamanship, but particularly Mr. Fearing, a merchant in Elizabeth city, whom he sailed for a long time, and John Williams, now of Baltimore, formerly of Elizabeth city, in whose employment he also was. My knowledge of his seamanship is derived mostly from my intercourse with him. He never moved to Edenton with his family; if he remained there any time, it was temporarily in the pursuit of his business.

Interrogatory tenth.—I am in no way interested in the lawsuit

against the Steamship Columbus, or in the result of it, nor was I, nor am I interested in any way in the "Mission," nor her cargo, nor connected with any one on board of her in October, November, or December, A. D. 1848.

Interrogatory eleventh.—I know of nothing else that is material to the respondents.

J. A. SPRUILL.

Jesse Herrington, the third witness examined, to the interrogatories and cross interrogatories hereto appended.

Interrogatory first.—I know John Sanderson, the libellant, and he was the owner of the Schooner "Mission" when she sailed from Edenton, in October, 1848. She was at that time worth five thousand dollars; she was built in Tyrrell county, North Carolina, and was launched in June, A. D. 1847. I should suppose that she cost at least six thousand dollars when rigged; I do not know, except from what I heard, what kind of cargo she had on board when she sailed from Edenton, in 1848, nor do I know its value, &c.

Interrogatory second.—I know nothing of the document referred to in this interrogatory.

Interrogatory third.—I know nothing of the cargo referred to, nor of the sale of it.

Interrogatory fourth.—I know nothing of the price of salt in December, 1848, in Edenton or in any other place in North Carolina.

Interrogatory fifth.—I did not know Captain Cobb, having never seen him nor known where he lived. I never heard him spoken of as a seaman, that I recollect, until since he was supposed to be lost, and all that I have heard speak of him since then give him the character of being a good sailor, an able and experienced captain.

Interrogatory sixth.—I know of nothing further as I know of that is material.

Answers to cross interrogatories.

Interrogatory first.—I am in my fortieth year, and a ship carpenter by trade, and have been following that trade for twelve or fifteen years; I reside in Plymouth at this time, and have been living there nearly four years.

Interrogatory second.—I have known John Sanderson nearly two years and a half; my acquaintance with Mr. Sanderson commenced by his employing me to work upon the Schooner "Mission;" I continued said job until she, the said vessel, was launched, and I have had no dealings with Mr. Sanderson since that time.

Interrogatory third.—I was employed in January or February, 1847, by Mr. Sanderson, before stated, to work upon the "Mission;" I then commenced work upon the said Schooner "Mission," having other hands working under me, and continued in the employment of John Sanderson until the vessel was completed and launched. Mr. John Sanderson paid my bill and the bills of the other hands, and I knew

of no other person as owner, or who had any interest in her except him.

Interrogatory fourth.—John Sanderson was the owner, as stated by me in my answer to the third interrogatory.

Interrogatory fifth.—As I before stated, I did, and caused to be done under me, the principal part of shipwright and carpenter's work; that, with my knowledge of other vessels, causes me to speak of her value in October, 1848, and of her original costs, having commenced work upon her when the frame was up, and continued until she was completed. I examined her minutely, and have examined her since she was rigged; I never owned her; her tonnage, I think, was one hundred and twelve and twenty-five ninety-fifths tons, and I believe the description given of her in the registry, of which a copy is hereto appended, is correct. She had a flushed deck; she was iron fastened, not sheathed; she was launched in June, 1847, and shortly thereafter was rigged with new rigging. She had a white oak frame and bottom, with pine decks and beams, and was what is called a white oak vessel. I do not know how she was rated in or at the insurance offices, nor do I know whether she was insured or not, in December, 1848.

Interrogatory sixth.—I know nothing of the facts inquired of in this interrogatory.

Interrogatory seventh.—I know nothing of the cargo, nor the sales of it. Mr. Sanderson, not long since, told me that he would want me as a witness in this case, as I was acquainted with the vessel.

Interrogatory eighth.—I had no connection in salt transactions, in either buying or selling it, in 1846, 1847, or 1848. I do not know the prices of that article in either of those years, and know nothing of the differences in price of salt, imported either in bags or bulk.

Interrogatory ninth.—The facts inquired of in this cross interrogatory, I have answered in my answer to the fifth interrogatory in chief.

Interrogatory tenth.—I am in no way connected with this lawsuit vs. The Steamship Columbus, nor in the result of this suit. I never have been interested in the "Mission" since my bill for work on her was paid. I have no interest in her cargo, nor am I connected with any one that was on board of her in October, November, December, 1848.

Interrogatory eleventh.—I know of nothing else material to respondents to be known or stated.

JESSE HERRINGTON.

John Bonshell, the fourth witness to the interrogations and cross interrogatories hereto appended.

Interrogatory first.—I know John Sanderson, and I did some work for him on the Schooner "Mission," in the spring of 1848, and he was then reputed to be the owner. I do not know of my own knowledge where she, the said vessel, was built, or when she was built; from my knowledge of vessels, I should suppose she cost at least between five and six thousand.

Interrogatory second. I know nothing of the document referred to in this interrogatory.

Interrogatory third. I know nothing about the facts inquired of in this interrogatory.

Interrogatory fourth. I know nothing of the facts inquired of in this interrogatory.

Interrogatory fifth. I knew Captain Cobb, and think his age is about fifty or fifty-five; he resided in Camden, as I have understood; I have known Captain Cobb since 1832, and I know from common reputation his character for seamanship, and no man stood higher in that respect, and as an industrious, efficient commander of a vessel.

Interrogatory sixth. I am not aware that I do, &c.

Answers to cross interrogatories, &c.

Interrogatory first. I am fifty-eight years of age, and my occupation is a shipwright, in which occupation I have been engaged ever since 1823. I reside in Edenton, and have been doing so ever since June, 1842.

Interrogatory second. I have known for two or three years John Sanderson; I have known him for the last two or three years; my acquaintance with him commenced by my doing work for him at my ship-yard, and I believe it was some work that I did upon the Schooner "Mission."

Interrogatory third. The "Mission," before she went to sea, was brought to my ship-yard to be measured, and to have some small work bestowed on her cabin; in the spring of 1848, she was again brought to the ship-yard, and whilst there, a new mast and some other work bestowed on her; at each time whatever was done, was done at the expense of John Sanderson as the owner, and I knew of no other person having any interest in her, or exercising any control over her except him; how he became the owner, I do not know, only as I have been informed.

Interrogatory fourth. As to the facts inquired of in this interrogatory I know nothing.

Interrogatory fifth. As I before stated, I have been engaged for many years following the trade of a shipwright, during which time I have repaired and built many vessels, and I examined the Schooner "Mission" as well as I could without stripping her, and I thought that she was well built and of good materials, and when she first come to my yard her rigging and sails were all good, in fact were all new; I never owned her; I do not recollect her tonnage exactly, nor measurement; she had a flushed deck; I think she was not coppered or copper-fastened; I saw part of the frame, which was of white oak; I do not know how she was rated in the insurance office, nor whether she was insured or not in December, A. D. 1849.

Interrogatory sixth. I know nothing of the facts inquired of in this interrogatory.

Interrogatory seventh. I know nothing of her cargo that she might

have had on board, nor the sales of it. I have had no conversation with Mr. Sanderson, except shortly after the loss of the vessel; I fell in with him, and he informed me that she was lost, and a few days ago he called upon me and stated that he wished to examine me as a witness in this case.

Interrogatory eighth. I know nothing of the prices of salt in the years 1846, 1847 and 1848, not having my attention called to that subject; I neither bought nor sold salt in either of those years.

Interrogatory ninth. My acquaintance with Captain Cobb commenced In 1832, and continued up to the time he was supposed to be lost; he never sailed from Edenton since I knew him, except the last time he went to sea. I did not know of his sailing in the Schooner "Mission," except the last time he went to sea. I don't know how long he followed the sea, but he had command of a vessel when I first knew him; he traded from Elizabeth city, North Carolina, to the West Indies; I never sailed with him; I have heard him spoken of as a seaman, many years before 1848, but by whom he was spoken of I cannot recollect; he did not reside in Edenton, but in 1844 was at that place about three months, attending to the building of a light-boat for the government, which was built at my ship-yard, and of which he afterwards had charge.

Interrogatory tenth. I am in no way interested in this lawsuit, nor in the result of the same. I have no interest in the Mission nor in the cargo, nor am I connected with any one that was on board of her in October, November or December, 1848.

Interrogatory eleventh. I know of nothing more material to be known or stated to the respondents.

JOHN BONSHELL.

STATE OF NORTH CAROLINA,
Chowan county, Edenton township.

I, Willam H. Wilder, the commissioner mentioned in the annexed commission, do hereby certify, that the witnesses whose names are mentioned in the caption to the foregoing depositions were each of them duly sworn on the Holy Evangelists of Almighty God, that I reduced to writing in their presence their respective depositions, and each of them signed their respective depositions. In testimony whereof I have hereto set my hand and seal at the town of Edenton, State of North Carolina aforesaid, the place at which said depositions were taken, this the 10th day of July, A. D. 1849, and of the independence of the United States the 74th year.

WILLIAM H. WILDER, [SEAL.]
Commissioner, &c.

To the honorable the judge of the district court of the United States in and for the eastern district of Pennsylvania.

By virtue of the annexed commission to me, William H. Wilder, directed, I have this 11th day of July, A. D. 1849, at the office of the

superior court clerk, in the town of Elizabeth city, in the State of North Carolina, proceeded to take the depositions of Mager Everton, esq., Isaiah Fearing, Charles M. Leaverty, Albert White, and Samuel Leigh, esq'rs, witnesses produced on the part of the libellant in the suit depending in the said court, wherein John Sanderson is the libellant, and the Steamer Columbus and owners are respondents; the said witnesses being first duly sworn on the Holy Evangelists of Almighty God, depose and say, in answer to the interrogatories and cross interrogatories hereto annexed, as follows, to wit:

Interrogatory first. (Answer.) I have known John Sanderson, the libellant, for many years.

Interrogatory second. I believe the document purporting to be under the seal of the custom-house of Edenton is a certified copy from the said custom-house of Edenton, and of the Schooner Mission at that port.

Interrogatory third. I do not know for what the cargo of said vessel sold.

Interrogatory fourth. I do not know.

Interrogatory fifth. I knew Captain Cobb. Knew for seven or eight years. I think he was some forty-five years of age, probably fifty years. His character for seamanship was excellent, ever since I have known him. He was a sober, pious, and industrious man, and a man who attended strictly to his business; he stood as high as master of a vessel as any man in the district.

Interrogatory sixth. I have been master of sea vessels for sixteen or seventeen years. It has been my custom, and I believe it to be the custom of other masters of vessels, to have the watches under the charge of the first mate and some other trusty seaman, and not to be on deck in the watches unless in bad weather or when I felt inclined.

Answers to cross interrogatories on the part of the respondents, viz:

Interrogatory first. I was forty-three in October last; occupation mariner, sixteen or seventeen years. I have resided in Currituck county, North Carolina, all my life.

Interrogatory second. I have known John Sanderson for twenty years; my acquaintance with him has been of a personal nature only.

Interrogatory third. I have already stated that I did not know to whom the Schooner Mission belonged in October, 1848.

Interrogatory fourth. She was built by Mr. Sanderson. I saw her on the stocks in 1847. I have this day seen the copy of the register from the custom-house in Edenton, and believe him to be the owner.

Interrogatory fifth. I never owned the Schooner "Mission." She had a flushed deck. I know nothing of her tonnage, measurement, &c., excepting what the copy of the registry states. She was built in 1847; she was a fore and aft schooner. I know nothing of the condition of her rigging, her frame was of white oak. I know nothing of her insurance or how she was rated.

Interrogatory sixth. I am ignorant of all the questions in this interrogatory.

have had on board, nor the sales of it. I have had no conversation with Mr. Sanderson, except shortly after the loss of the vessel; I fell in with him, and he informed me that she was lost, and a few days ago he called upon me and stated that he wished to examine me as a witness in this case.

Interrogatory eighth. I know nothing of the prices of salt in the years 1846, 1847 and 1848, not having my attention called to that subject; I neither bought nor sold salt in either of those years.

Interrogatory ninth. My acquaintance with Captain Cobb commenced In 1832, and continued up to the time he was supposed to be lost; he never sailed from Edenton since I knew him, except the last time he went to sea. I did not know of his sailing in the Schooner "Mission," except the last time he went to sea. I don't know how long he followed the sea, but he had command of a vessel when I first knew him; he traded from Elizabeth city, North Carolina, to the West Indies; I never sailed with him; I have heard him spoken of as a seaman, many years before 1848, but by whom he was spoken of I cannot recollect; he did not reside in Edenton, but in 1844 was at that place about three months, attending to the building of a light-boat for the government, which was built at my ship-yard, and of which he afterwards had charge.

Interrogatory tenth. I am in no way interested in this lawsuit, nor in the result of the same. I have no interest in the Mission nor in the cargo, nor am I connected with any one that was on board of her in October, November or December, 1848.

Interrogatory eleventh. I know of nothing more material to be known or stated to the respondents.

JOHN BONSHELL.

STATE OF NORTH CAROLINA,
Chowan county, Edenton township.

I, Willam H. Wilder, the commissioner mentioned in the annexed commission, do hereby certify, that the witnesses whose names are mentioned in the caption to the foregoing depositions were each of them duly sworn on the Holy Evangelists of Almighty God, that I reduced to writing in their presence their respective depositions, and each of them signed their respective depositions. In testimony whereof I have hereto set my hand and seal at the town of Edenton, State of North Carolina aforesaid, the place at which said depositions were taken, this the 10th day of July, A. D. 1849, and of the independence of the United States the 74th year.

WILLIAM H. WILDER, [SEAL.]
Commissioner, &c.

To the honorable the judge of the district court of the United States in and for the eastern district of Pennsylvania.

By virtue of the annexed commission to me, William H. Wilder, directed, I have this 11th day of July, A. D. 1849, at the office of the

superior court clerk, in the town of Elizabeth city, in the State of North Carolina, proceeded to take the depositions of Mager Everton, esq., Isaiah Fearing, Charles M. Leaverty, Albert White, and Samuel Leigh, esq'rs, witnesses produced on the part of the libellant in the suit depending in the said court, wherein John Sanderson is the libellant, and the Steamer Columbus and owners are respondents; the said witnesses being first duly sworn on the Holy Evangelists of Almighty God, depose and say, in answer to the interrogatories and cross interrogatories hereto annexed, as follows, to wit:

Interrogatory first. (Answer.) I have known John Sanderson, the libellant, for many years.

Interrogatory second. I believe the document purporting to be under the seal of the custom-house of Edenton is a certified copy from the said custom-house of Edenton, and of the Schooner Mission at that port.

Interrogatory third. I do not know for what the cargo of said vessel sold.

Interrogatory fourth. I do not know.

Interrogatory fifth. I knew Captain Cobb. Knew for seven or eight years. I think he was some forty-five years of age, probably fifty years. His character for seamanship was excellent, ever since I have known him. He was a sober, pious, and industrious man, and a man who attended strictly to his business; he stood as high as master of a vessel as any man in the district.

Interrogatory sixth. I have been master of sea vessels for sixteen or seventeen years. It has been my custom, and I believe it to be the custom of other masters of vessels, to have the watches under the charge of the first mate and some other trusty seaman, and not to be on deck in the watches unless in bad weather or when I felt inclined.

Answers to cross interrogatories on the part of the respondents, viz:

Interrogatory first. I was forty-three in October last; occupation mariner, sixteen or seventeen years. I have resided in Currituck county, North Carolina, all my life.

Interrogatory second. I have known John Sanderson for twenty years; my acquaintance with him has been of a personal nature only.

Interrogatory third. I have already stated that I did not know to whom the Schooner Mission belonged in October, 1848.

Interrogatory fourth. She was built by Mr. Sanderson. I saw her on the stocks in 1847. I have this day seen the copy of the register from the custom-house in Edenton, and believe him to be the owner.

Interrogatory fifth. I never owned the Schooner "Mission." She had a flushed deck. I know nothing of her tonnage, measurement, &c., excepting what the copy of the registry states. She was built in 1847; she was a fore and aft schooner. I know nothing of the condition of her rigging, her frame was of white oak. I know nothing of her insurance or how she was rated.

Interrogatory sixth. I am ignorant of all the questions in this interrogatory.

Interrogatory seventh. I have already answered interrogatory third in chief in the negative. On the 2d July, 1849, Mr. Sanderson called on me stating that he wished to take my deposition as regards the character of Captain Cobb, who was lost on the Schooner "Mission," and the custom of masters of sea-going vessels, as regards the keeping of watches on board of vessels in the West India trade.

Interrogatory eighth. I never bought or sold salt in Edenton in my life. I do not know the difference in price between salt imported in bags or bulk, as it is never imported in bags in these waters.

Interrogatory ninth. I have known Captain Cobb seven or eight years; the last voyage of the "Mission" was Captain Cobb's first voyage in her; he has been master of a vessel ever since I have known him; he was master of a vessel several years previous to my knowing him personally. I never sailed with him. I have known merchants and masters of vessels speak of his seamanship in the highest terms. He never resided in Edenton.

Interrogatory tenth. I have no interest in this lawsuit, never had any in the Schooner "Mission" or her cargo, nor am I connected with any one that was on board in October, November, nor December, 1848

Interrogatory eleventh. I know of nothing more.

MAGER EVERTON.

Isaiah Fearing, the second witness examined, to the interrogatories and cross interrogatories hereto appended.

Interrogatory first. (Answers.) I know John Sanderson, the libellant; as for the balance of the interrogatory I know nothing.

Interrogatory second. I have looked at the document and I believe it to be genuine.

Interrogatory third. I answer this interrogatory in the negative.

Interrogatory fourth. I do not know what the price of salt was in Edenton, North Carolina, in December, 1848, but in this place, Elizabeth city, North Carolina, where I am a merchant, it was worth thirty-two cents per bushel.

Interrogatory fifth. I did know Captain Cobb; his age is from forty-five to fifty; he resided in Camden county, North Carolina; his character for seamanship was excellent, ever since I have known him, which is about twenty-five years. He was a sober, industrious, and pious man, as I believe, and one who attended closely to his business; he sailed in my employ some eight or nine years, and was at times part owner of vessels with me.

Interrogatory sixth. I know nothing more.

Answers to the cross interrogatories on the part of the respondents, viz:

Interrogatory first. I am fifty-eight years of age, and have been a merchant in this place, where I reside, for thirty-three years.

Interrogatory second. I have known Mr. John Sanderson for ten or twelve years; my acquaintance with him has been principally personal. I have had slight dealings with him from time to time, in

selling his goods from my store, which had no connection whatever with the Schooner "Mission."

Interrogatory third. I know nothing in answer to this interrogatory.

Interrogatory fourth. I know nothing as to this interrogatory.

Interrogatory fifth. I know that the vessel spoken of was a fore and aft schooner; I know nothing further as to this interrogatory.

Interrogatory sixth. In answer to this interrogatory I know nothing.

Interrogatory seventh. Having answered the third interrogatory in chief in the negative, I know nothing more in answer to this interrogatory, except Mr. Sanderson called on me to-day in this place and told me he wished to take my deposition relative to the character of Captain Cobb as a mariner.

Interrogatory eighth. I never bought or sold salt in Edenton in my life; I do not know the difference in price between salt imported in bags or bulk, as it is never imported in bags in these waters.

Interrogatory ninth. I have known Captain Cobb for twenty-five years. I do not know of his ever sailing out of Edenton, except the last voyage which he made, which was in the "Mission." He has been master of a vessel, following the sea, ever since I have known him. His voyages were made principally to the West Indies. I never sailed with him. I have heard merchants and masters of vessels speak of his seamanship in the highest terms for several years. He never did reside in Edenton.

Interrogatory tenth. I answer this interrogatory in the negative.

Interrogatory eleventh. In answer to this interrogatory, I know nothing.

ISAIAH FEARING.

Charles M. Laverty, the third witness examined, to the interrogatories and cross interrogatories hereto appended.

Interrogatory first. I know John Sanderson, the libellant. He was the owner of the Schooner "Mission," in October, 1848, when she sailed from the port of Edenton. She was worth forty-five hundred dollars at that time; I would of given that sum for her. I do not know what it cost to build her. I saw her at Ocracoke bar, on her last voyage to the West Indies. I do not know what she had in her hold, nor the value of it, her cargo; but I saw her deck load, and it was shingles.

Interrogatory second. I have examined the document—believe it to be the collector's signature, from my knowledge of his handwriting, and therefore genuine.

Interrogatory third. I answer, no.

Interrogatory fourth. I did not know the price of Rum Key salt, in the town of Edenton, North Carolina, in 1848. The usual price of salt per bushel, in this place, was thirty-two cents, for which I sold it in the year 1848, and I deal largely in salt.

Interrogatory fifth. I knew Captain Cobb well; he was between forty-five and fifty years of age; resided in Camden county, North Carolina. His character of seamanship was excellent, ever since I

have known him, which is for some eighteen years. He was an industrious, pious, and sober man, and one who attended closely to his business. I have been a merchant in this place for twelve years; I have a good opportunity of knowing Captain Cobb.

Interrogatory sixth. I know of nothing more, except it is the custom with myself and other merchants to make the captain the consignee of the cargo, to sell the same, and purchase a return cargo, or bring in the money.

Answers to the cross interrogatories on the part of the respondents, viz:.

Interrogatory first. I am forty-two years of age; have been a merchant engaged in the shipping business in this place, and also been engaged in building vessels for twelve years. I have resided in this place twenty-one years.

Interrogatory second. I have known John Sanderson for about twelve years; my acquaintance has been both personal and from dealings with him. I built a vessel for him about nine years ago, and have repaired several for him. I caulked and repaired her cabin, the Schooner "Mission," a short time previous to her late voyage, for all of which work Mr. Sanderson paid me long ago.

Interrogatory third. I know the Schooner "Mission" to have been the property of John Sanderson, because he built her in 1847, in Tyrrell county; he has always acted as owner, and paid me for the repairs I put on her just previous to her last voyage.

Interrogatory fourth. When he built her, I never knew of any one else having any interest in her.

Interrogatory fifth. I knew her value in 1848, because I had her on my ways, and examined her minutely, having an idea of trying to purchase her on her return. She was about one hundred and ten tons; breadth of beam about twenty-two feet; length of keel about sixty-five feet; depth of hold about seven and a half feet; draught of water, when loaded, about nine feet; light, five and a half feet; flushed deck; iron fastened, not coppered nor sheathed; eighteen months old; for and aft schooner; rigging good; built of white oak. I know nothing of her rates at the insurance office.

Interrogatory sixth. I know nothing more than what I have already stated about her deck load.

Interrogatory seventh. I know nothing of the value of her cargo. Some four or five months ago, Mr. Sanderson told me he was going to sue for the loss of the Schooner "Mission," and asked me what I thought the vessel was worth, and what the cargo ought to have brought in the West Indies. I valued the vessel at forty-five hundred dollars, and the cargo, from what he said was on board, ought to have sold for a return cargo of twenty-five hundred bushels of salt, and a thousand dollars in cash. He also said that he should take my deposition, if he brought suit.

Interrogatory eighth. I sold Rum Key salt in the town of Edenton,

in the years of 1846 and 1847, to the amount of twelve or fifteen thousand bushels, averaging in price from thirty to thirty-three cents per bushel, good quality; time averaging six months. I do not know the difference in price of salt in bulk nor in bags, as we never import salt in bags.

Interrogatory ninth. I have known Captain Cobb for eighteen years. He never sailed out of Edenton, except the last voyage of the Schooner "Mission;" he had been master of a vessel, ever since I have known him, almost always in the West India trade. I have heard merchants, masters of vessels, and sailors speak of his seamanship in the highest terms at all times. I never sailed with him. He did not reside in Edenton.

Interrogatory tenth. I answer, no.

Interrogatory eleventh. I know of nothing more.

CHARLES M. LAVERTY.

Albert White, the fourth witness examined, to the interrogatories and cross interrogatories hereunto appended, viz:

Interrogatory first. I know John Sanderson, the libellant. I saw and was frequently on board of the Schooner Mission, in Basseterre, in the Island of Guadaloupe, in her last voyage in the month of November, 1848; her cargo was shingles. I think she had about three hundred and seventy-five thousand; worth in that island about $1,350 to $1,400 at that time.

Interrogatory second. I have seen the document, and believe it to be genuine.

Interrogatory third. Yes; in the latter part of November the cargo was sold, and for $3 70 per thousand, in the year 1848.

Interrogatory fourth. I do not know.

Interrogatory fifth. I knew Captain Cobb well. He was between forty-five and fifty years of age. He resided in Camden county, North Carolina. His character for seamanship was excellent ever since I have known him, which is for about twelve years. He was an industrious, pious, and sober man, and one who adhered strictly to his business.

Interrogatory sixth. I have been a master of a sea vessel trading to the West Indies for about twelve or thirteen years. It has been my custom, and I believe it to be the custom of other masters of vessels, to have the watches under the charge of the first mate and second mate, or some other trusty seaman, and not to be on deck in the watches unless in bad weather, or when I felt inclined.

Answers to the cross interrogatories on the part of the respondents, viz:

Interrogatory first. I am thirty-two years of age, and master of a vessel, which I have followed for twelve or thirteen years. I reside in Elizabeth city, North Carolina, and have resided here about ten years.

Interrogatory second. I have known John Sanderson about two years. My acquaintance with him was merely personal.

Interrogatory third. I know nothing.

Interrogatory fourth. I know nothing.

Interrogatory fifth. She was a fore and aft schooner, and had a flushed deck.

Interrogatory sixth. I know the kind of cargo she had on board from the fact that she left the waters of North Carolina on the day after I did, both bound to the West Indies, in the month of October, 1848, and I saw her in the month of November, 1848, in the Island of Guadaloupe, in the West Indies; was on board of her frequently, and saw her cargo being discharged. Its quantity I got from Captain Cobb and John Sanderson before she sailed. I was present when the cargo was sold, and therefore know the value per thousand.

Interrogatory seventh. I have stated my means of knowledge in cross interrogatory No. 6, (in my answer thereto.) Mr. John Sanderson has asked me what I knew of Captain Cobb, and to what merchant he sold in the West Indies. I give him the character already given by me of Captain Cobb. Mr. Petite was the commission merchant who sold the cargo of Captain Cobb.

Interrogatory eighth. In 1846 or 1847, I sold a cargo of Rum Key salt in Edenton (about twenty-eight hundred bushels) for about thirty cents per bushel—time ninety days. I do not know the difference in prices of salt imported in bulk or bags, as it is never imported in bags here.

Interrogatory ninth. I have known Captain Cobb for about twelve years. I do not know of his ever sailing out of the port of Edenton, except in the last voyage which he made in the Mission. He was the master of sea-going vessels ever since I knew him, with the exception of some three or four years, during which time he was engaged in keeping one of our Government light-boats. His voyages were chiefly to the West Indies. I never sailed with him. I have heard merchants and masters of vessels (and have seen it myself) speak of his seamanship in the highest terms. He did not reside in Edenton.

Interrogatory tenth. I answer, no.

Interrogatory eleventh. I do not.

ALBERT WHITE.

Samuel Leigh, the fifth witness examined, to the interrogatories and cross interrogatories hereto appended, &c.

Interrogatory first. I know John Sanderson, the libellant. He was the owner of the Schooner Mission when she sailed from Edenton, in October, A. D. 1848. She was worth about five thousand dollars at that time. She was built in Tyrrell county, State of North Carolina, at considerable expense (about four thousand dollars for the hull) at that time. I know nothing of her cargo.

Interrogatory second. I do not know.

Interrogatory third. I do not know.

Interrogatory fourth. I do not know what was the price of salt in December, 1848, in North Carolina. I was to have taken two thousand bushels of the Mission's return cargo of salt at that time at thirty-three cents per bushel.

Interrogatory fifth. I did not know Capt. Cobb.

Interrogatory sixth. I know nothing more.

Answers to cross interrogatories, on the part of the respondents, viz:

Interrogatory first. I am fifty-one years of age, and have always resided in Tyrrell county, North Carolina. I have always been farming and fishing.

Interrogatory second. I have known John Sanderson for the last ten years, and have been living a near neighbor to him; my acquaintance with him has been both personal and from dealings with him. Those dealings with each other were exchanges of the products of our farms. I once bought from him a thousand bushels of salt, from on board the Schooner "Mission," in April, 1848; I have had no other dealings connected with the Schooner "Mission," except the two thousand bushels of salt already spoken of, which I was to have taken on the return cargo of the said Schooner "Mission," on the voyage in which she was lost.

Interrogatory third. I know him to be the owner, because he built her. I saw her frequently when he was building her; he always acted as owner. I never heard any one else set up any claim to her.

Interrogatory fourth. He become sole owner when he built her; I never heard of any other owner.

Interrogatory fifth. I derived my knowledge of her value, from having seen her frequently when she was being built, and after she was launched. I have examined her minutely; she was a flushed deck, fore and aft schooner; she was not coppered nor copper fastened, nor sheathed; she was launched in June or July, 1847; she was then rigged, and the rigging was all in good order; she was built of white oak timbers and bottom. I know nothing of her rates at the insurance office; I do not think she was insured.

Interrogatory sixth. I know nothing in answer to this interrogatory.

Interrogatory seventh. I know nothing of the cargo nor its value; Mr. Sanderson simply told me that he wished to take my deposition in this case, as to the value of the vessel, and as to the value of salt, in December, 1848.

Interrogatory eighth. I never bought or sold any salt in Edenton, in the years of 1846, 1847, or of 1848. I bought a thousand bushels of salt from Mr. Sanderson, in April, 1848—at the end of fishing season, and it was therefore low. I gave twenty-five cents cash. I bought of Captain Chaplin six hundred of salt, in March, 1848, for which I paid thirty-five cents cash. I do not know the difference in price of salt imported in bulk or bags.

Interrogatory ninth. I know nothing in answer to this.

Interrogatory tenth. I own not, nor had I any interest in the "Mission" or cargo, nor was I connected with any person on board of her.

Interrogatory eleventh. I know of nothing more.

SAMUEL LEIGH.

STATE OF NORTH CAROLINA,
Pasquotank county, town of Elizabeth city.

I, William H. Wilder, the commissioner mentioned in the annexed commission, do hereby certify, that the witnesses, whose names are mentioned in the caption to the foregoing depositions, were each of them duly sworn, on the Holy Evangelists of Almighty God, that I reduced to writing, in their presence, their respective depositions, and each of them signed their respective depositions. In testimony whereof I have hereto set my hand and seal, at the town of Elizabeth city, State of North Carolina aforesaid, the place at which said depositions were taken, this the 11th day of July, A. D. 1849, and of the independence of the United States the 74th year.

WM. H. WILDER,
Commissioner, &c.

Permanent.
No. 1. *One.*

In pursuance of an act of the Congress of the United States of America, entitled "An act concerning the registering and recording of ships or vessels," John Sanderson, of Tyrrell county, State of North Carolina, having taken or subscribed the oath required by the said act, and having sworn that he is the only owner of the ship or vessel called the Mission of Edenton, whereof Joseph Allen is at present master, and a citizen of the United States, as he hath sworn, and that the said ship or vessel was built on Alligator river, in Tyrrell county, in the State of North Carolina, in the year one thousand eight hundred and forty-seven, as appears by the certificates of the master carpenter. And Duncan McDonald, measurer, having certified that the said ship or vessel has one deck and two masts, and that her length is seventy-six feet, her breadth twenty-two feet eleven inches, her depth seven feet eight inches; that she measures one hundred and twelve and $\frac{15}{95}$ths tons, and that she is a schooner, has a square stern, no galleries, and a billet-head. And the said John Sanderson, having agreed to the description and admeasurement above specified, and sufficient security having been given, according to the said act, the said schooner has been duly registered at the port of Edenton, N. C.

Given under my hand and seal, at the port of Edenton, this thirteenth day of July, in the year one thousand eight hundred and forty-seven. A true copy from the files of my office of collector of the port of Edenton, N. C. Witness my hand and seal of office at said port, this 10th day of July, 1849.

[L. S.]

JAMES E. NORFLUT, *Collector.*

1845.

Bill of costs or expenses incurred by John Sanderson, and paid by him in taking depositions of the foregoing witnesses, in the foregoing case. John Sanderson, libellant, and the Steamship Columbus, respondent.

At Edenton.

James E. Norflut	$0 60
Joseph A. Spencer	3 40
Jesse Herrington	3 40
John Bonshell	60

At Elizabeth city.

Mager Everton	3 50
Isaiah Fearing	60
Charles M. Laverty	60
Captain Albert White	60
Samuel Leigh	10 17
Attorney's fees, (for two days,)	30 00
Wm. H. Wilder, commissioner, &c.,	25 00
	$78 47

I, William H. Wilder, do hereby certify, that the foregoing expenses were paid by John Sanderson, and that the charges for witnesses are the fees allowed in this State to witnesses attending our courts.

Attest: WILLIAM H. WILDER,
Commissioner, &c.

In the district court of the United States in and for the eastern district of Pennsylvania. In admiralty.

SANDERSON
vs.
THE COLUMBUS.

The President of the United States, to William H. Gould.

Know ye, that, in confidence of your prudence and integrity, we have given unto you, and by these presents do give unto you, full power and authority, in pursuance of a rule lately made in the district court of the United States in and for the eastern district of Pennsylvania, in a certain plea civ. et mar., therein depending, wherein the said John Sanderson is the libellant against the Steamer Columbus, to call before you at a certain day and place, by you for that purpose to be appointed, all and every person and persons who may be named to you by the said libellant, as witnesses in the said action, and then and there to examine them, on their respective oaths and affirmations, on certain interrogatories hereunto annexed, touching the premises, and to reduce their testimony to writing; and when you shall have so done,

you are to send the same to the said district court, closed up, and under your seals, plainly and distinctly set, together with this writ.

Witness the honorable John K. Kane, judge of said court at Philadelphia, this twenty-ninth day of January, A. D. 1851, and in the seventy-fifth year of the independence of the said United States.

[L. S.] THOMAS L. KANE,
Clerk district court U. S.

In the district court of the United States in and for the eastern district of Pennsylvania. In admiralty.

JOHN SANDERSON
vs.
STEAMER COLUMBUS.

Interrogatories to be propounded to witnesses, to be produced, sworn, or affirmed, and examined on the part of the libellant in the above case, under a commission to the Island of Rumkey.

1. Do you know the libellant, and have you any knowledge of the Steamer Columbus?

2. Do you know whether the Schooner Mission touched at Rumkey in the winter or fall of 1848, particularly in the month of November or December, 1848? If aye, state whether you know the fact that she took in a cargo of salt.

3. If you have answered the last question affirmatively, then state how much salt she took on board, and what was the price per bushel at that time, paid for salt at Rumkey; and state, if you know, what price the mission paid for her salt.

4. Did you know Captain Cobb, captain of said schooner? If aye, state whether you have any knowledge or any means of ascertaining that he purchased a cargo of salt in the months of November or December, 1848; if aye, how much did he buy, what was the quality of said salt, and what did he pay per bushel for it; if you have stated what was the quality of the salt, be particular to state the same as exactly as within your knowledge.

5. Are you in any way connected with the custom-house at Rumkey? If aye, state what your connection with it is. Have you any knowledge of a schooner called the Mission, having cleared at Rumkey for the United States, in the fall or winter of 1848 or 1849? If aye, state when she cleared, what she was loaded with, what was the amount of export duty she paid, and if loaded with salt, how much she was described as containing; if you have answered the foregoing questions affirmatively, produce a copy of the clearance.

6. Have you any knowledge or means of knowing the rates of freight from Rumkey to the United States, coast of North Carolina? If aye, what would the freight be upon a cargo of salt to Edenton?

7. Do you know anything else material to the interests of the libel-

lant? If aye, state the same in full, as if you were particularly interrogated thereon.

J. MURRAY RUSH,
Proctor for libellant.

A true copy of the original filed.

CHAS. F. HEAZLITT,
Pro Clerk dist. court.

Cross interrogatories to be propounded on behalf of witnesses sworn on the part of the libellant.

Cross interrogatory first. If you answer the second interrogatory in chief in the affirmative, then state your means of knowledge, and whether you yourself put the salt, and every bushel of it, on board the Mission, or only state your answer from what you have been told by others.

Cross interrogatory second. How many schooners and brigs sailed from Rumkey in October, November, and December, 1848, laden with salt, and how do you state positively that the Schooner Mission was one of them? Were you personally acquainted with the gentleman who is stated to have commanded the schooner before the time or occasion when she is stated to have visited Rumkey; are you sure that the schooner called the Mission was at Rumkey at all, in November or December, 1848; if yes, state her tonnage, build, &c., and how you became acquainted with her?

Cross interrogatory third. If you answer the third interrogatory in chief in the affirmative, then state how you know the number of bushels; did you buy it yourself and lade it on board, or did you contract with others, who also loaded the salt; did you alone furnish it, and what is the usual per centage of bushels off, when the amount of bushels nett is to be ascertained, by which the price to be paid at Rumkey per bushel is regulated?

Cross interrogatory fourth. Annex a sworn copy of the account current, if any rendered the captain of the Mission in 1848, and the entry in your invoice of the sale book of the nett quality and price of the salt.

Cross interrogatory fifth. Is not all the information on the books of the collector, derived from the reports of the master of the vessel, and have you any personal knowledge of the truth of any fact inquired about in the fifth cross interrogatory?

EDWARD WALN,
For respondent.

A true copy from the original filed.

CHAS. F. HEAZLITT,
Pro Clerk district court.

JOHN SANDERSON
vs.
STEAMER COLUMBUS.

Alexander Forsyth, of the Island of Rum Cay, one of the Bahama Islands, aged twenty-three years, or thereabouts, being produced, sworn, and examined on behalf of the libellant, deposeth as follows:

1. To the first interrogatory on the part of the libellant, he answers as follows: I do not know the libellant, nor have I any knowledge of the Steamer Columbus.

2. To the second interrogatory on the part of the libellant, he answers as follows: I know that the Schooner Mission called at Rum Cay in the fall of 1848. In the month of November, 1848. I know that she took a cargo of salt.

3. To the third interrogatory on the part of the libellant, he answers as follows: She took 2,397 bushels nett on board; the price at that time was 12½ cents per bushel. The Mission paid 12½ cents per bushel for her salt.

4. To the fourth interrogatory on the part of the libellant, he answers as follows: I knew Captain Cobb of the Schooner Mission. I know that he purchased a cargo of salt in the month of November, 1848. My means of ascertaining are, that I purchased the cargo for him. He bought 2,397 bushels nett; the quality was good merchantable salt, such as is usually bought by vessels from North Carolina. I have stated the same exactly as within my knowledge.

5. To the fifth interrogatory on the part of the libellant, he answers as follows: I am not connected with the custom-house at Rum Cay. I have no connection with it. I know that a Schooner Mission cleared at the port of Rum Cay in the fall of the year 1848, in the month of November. I went with the captain, John Cobb, to clear out, as consignee of the Schooner Mission. She cleared on the 25th November, 1848. She was loaded with a cargo of salt. The amount of export duty paid was $14 98, fourteen dollars ninety-eight cents. She was described as containing 2,397 bushels nett. I have no means of obtaining a copy of the clearance.

6. To the sixth interrogatory on the part of the libellant, he answers as follows: I have no knowledge or means of ascertaining the rates of freight from Rum Cay to the United States coast of North Carolina. I do not know what would the freight be upon a cargo of salt to Edenton.

7. To the seventh interrogatory on the part of the libellant, he answers as follows: I know that the Mission paid half tonnage duty, clearance fee, in and out pilotage, and consul's fees. She paid half tonnage duty, say 12 cents per ton on one hundred and twelve tons. She paid nine dollars in and out pilotage; she paid four dollars for deposit and delivery of papers, two dollars for consular verification of invoice, and four dollars and eighty ($4 80) cents clearance fee.

ALEXANDER FORSYTH.

Sworn to before me, at Rum Cay, Bahamas, this 30th day of January, 1852.

W. H. GOULD, *Commissioner.*

A.

(COPY.)

25th November, 1848, American Schooner Mission, 112 tons, John Cobb, master; 2,397 bushels, at 12½ cents, $299 62½, paid for in doubloons, at $15½, and five-franc pieces at 90 cents.

Boat.	bushels nett.		Boat.	bushels nett.	
Sarah Ann,			Matilda,		
James Kelly . . .	125		Timy. Bain . . .	239	
William Hepburn .	116		London Butler . .	327	
Thomas Love . . .	19		Charles Strachan . .	78	
				——	644
H. Strachan . . .	436		Swiftsure.		
Joseph Lord . . .	210		George Franks . .	763	
	——	906	William Strachan .	84	
				——	847

I certify the above to be a true copy from my commission book.

ALEXANDER FORSYTH,
Commission Merchant.

Rum Cay, Bahamas, 30th January, 1852.

Sworn to before me at Rum Cay, Bahamas, this 30th day of January, 1852.

W. H. GOULD, *Commissioner.*

This is the paper, exhibit, or document referred to by Alexander Forsyth in his examination, as the paper marked A.

W. H. GOULD, *Commissioner.*

JOHN SANDERSON
vs.
STEAMER COLUMBUS.

Alexander Forsyth, of the Island of Rum Cay, one of the Bahama islands, aged twenty-three years or thereabouts, being produced, sworn, and examined on the behalf of the libellant, deposeth as follows:

1. To the first cross interrogatory on behalf of the defendant, he answers as follows: I answer the second interrogatory in chief in the affirmative. My means of knowledge are, that I being consignee of the vessel, I purchased the salt and contracted with the several parties to deliver it on board.

2. To the second cross interrogatory on behalf of the defendant, he answers as follows: I do not know how many schooners and brigs sailed from Rum Cay in October, November, and December, 1848,

laden with salt, but being consignee of the Mission, I know positively that she was one of them. I was not personally acquainted with the gentleman who is stated to have commanded the schooner before the time or occasion when she is stated to have visited Rum Cay, in 1848. I am quite positive that the schooner called the Mission was at Rum Cay in November, 1848. Her tonnage was one hundred and twelve tons, schooner built and rigged; I became acquainted with her, having gone aboard with the captain. Her tonnage I know from having seen her register.

3. To the third cross interrogatory on the part of the defendant, he answers as follows: I have answered the third interrogatory in chief in the affirmative, and know from my own knowledge the number of bushels. I bought it myself from different parties who contracted to deliver it on board; I did not furnish any myself, but bought the whole from others. The usual per centage allowed for wastage in shipping salt at this port is five per cent. discount, but the number mentioned by me is the nett amount that Captain Cobb actually paid for after deducting five per cent.

4. To the fourth cross interrogatory on the part of the defendant, he answers as follows: There was no regular account current for the salt rendered the captain of the Mission; I gave him a bill for the salt, and he took a receipt for the tonnage duty, clearance fees, and export duty at the custom-house. I now annex a statement (marked A) of the entry on my commission book of the nett quantity and price of the salt.

5. To the fifth cross interrogatory on the part of the defendant, he answers as follows: At the time the Mission was at Rum Cay, the information on the books of the collector was derived from the reports, or manifests and bills of entry inwards and outwards of the master of the vessel, but at present the number of bushels of salt shipped is derived from the report of the Colonial Tidewater. I have personal knowledge of all I have stated to be true, and always supposed facts to be truths.

ALEXANDER FORSYTH.

Sworn to before me, at Rum Cay, Bahamas, this 30th day of January, 1852.

W. H. GOULD, *Commissioner.*

Exceptions ex parte respondents to Commissions to West Indies, viz: Rumkey.

First exception. That the last general interrogatory in chief is not answered.

Second exception. Because the answer to the first cross interrogatory shows that the answer to the second interrogatory in chief is hearsay, and not evidence.

Third exception. Because the answer to the third interrogatory in chief is proved, by the answer to the third cross interrogatory, to be hearsay, and derived from others.

Fourth exception. Because the witness has not annexed, in answer to the exigency of the cross interrogatory, a copy of the account current, or of the invoice or sale book, of the nett quality and price of the salt.

WALN, *for respondents.*

August 22, 1852.

1852, September 17, exceptions dismissed.

JOHN SANDERSON
vs.
STEAM PACKET COLUMBUS, JAMES B. PECK now, or late, master. } In admiralty.—Collision.

February 8, 1849.—Parties meet pursuant to the rule annexed. Present, J. M. Rush, esq., who appeared for the libellant, and —— Waln, esq., for ———, when Willson G. Burgess, being produced, sworn, and examined on the part of the libellant, deposes and says: (written interrogatories having first been dispensed with by consent) "I live in Camden county, North Carolina. I am 28 years old. My business is that of a sailor. I have followed the sea 14 or 15 years. I shipped as an able seaman. I have been acquainted with John Sanderson ever since I shipped on board his vessel. I never had any acquaintance with him before. I have sailed with him. I shipped on board the schooner at Elizabeth city wharf. The name of the schooner was the "Mission" I shipped on. I came on board with Capt. Cobb; never saw Mr. Sanderson. I went on board at Elizabeth city wharf. The Mission started for Antigua after we loaded her. She was 112 tons and some 95ths. She had six men and boys: Capt. Cobb, the mate, Thomas D. Dowdy, James Chatham, able seaman, Joseph Brown, ordinary seaman, myself, an able seaman, and Hamilton Gordon cook, and the captain's little son William, about 12 years old. We had a cargo of shingles. I do not know the amount. We left for the West Indies from Ocracoke bar."

Question. Is that a mistake, or are you correct? Did you not go from Edenton, North Carolina? [Mr. Rush recalls the question.]

"We left the mouth of the Alleghany river when we loaded the vessel, and went up to Edenton. After that we proceeded down the sound to Ocracoke bar, and from there proceeded to the West Indies. Before we left I signed articles. We left the 17th of October. We left Edenton, I think it was the 17th, 1848. The Mission was a well-built schooner—a fore and aft schooner. I never knew any thing about her until I went on board of her. She was what is termed a new vessel. We had nothing on board but shingles. When we started, the Mission was in good order. She was caulked from her keel up. I think I heard the captain say she was caulked from her keel up. Her bends were not painted. She was painted from the bottom up to the bends. It was sixteen days, to the best of my knowledge, before we made Antigua from Ocracoke bar, an inlet on the coast of North Carolina. We were three days going from Edenton to Ocracoke. We laid at

Ocracoke bar two days. It was sixteen days from the time we crossed the bar. With the exception of one day and night we had very pretty weather, generally speaking. We remained at Antigua one day. From that point we went to Bassaterre, Guadaloupe. We remained at Guadaloupe four days. We discharged the cargo. [I don't.] There was nothing done to the vessel when from Bassaterre we went to Rum Key, one of the islands. The captain took on board the proceeds of cargo, in specie, before starting from Rum Key. The specie was taken on board at the port of Bassaterre. I took in one of the bags myself. The steward took the other. I saw both. These bags were about four inches wide and six inches long. I know that they were Spanish dollars, for I saw the captain count them. I did not see any gold. I heard the captain say that there was gold. [Objected to by Mr. Waln.] We were eight or nine days in going to Rum Key. We went in on Friday evening and came out on Sunday morning. We went to Rum Key for salt. There was 2,500 bushels of it, I heard the captain say. [Objected to.] I helped to put the salt on board. It was in bags. It was brought on board in bags and poured down in the hold in bulk. The salt was on the ceiling. I don't recollect whether there was any damage or not. I know that eleven cents a bushel was paid for the salt. I almost think it was on the 26th of November that we left Rum Key. There was no change in the captain or crew when we left Rum Key. It was the same as when we started from the United States. In running down from Bassaterre to Rum Key we examined the rigging and sat it up taut, and tarred it, and painted her bends and waist outside and in. When we left Rum Key our vessel was in good sea order; she was not loaded deep; she was only in good sailing trim. After we left Rum Key and got out clear of the island, I think our course was N. by W. We had very moderate cloudy weather, which continued that day. That was the last of that moderate weather. After that we had a tolerable heavy wind from the northwest, which I think continued two days, or near that. After that the wind kept hauling more into the northward, and kept going round till it got into the southeast. The wind got into the southeast some time in the afternoon, near night. It continued there for three or four days; three days, as near as I can recollect. After that it shifted into the westward. After this the wind kept hauling up gradually into the northwest. It shifted into that quarter at half-past ten o'clock Saturday morning, I think on the 2d of December. When the wind first came round into the westward, it blew for about 24 hours pretty fresh. After that it cleared away and moderated down to a tolerable fair breeze; that is, a single reef breeze. This was about eight o'clock that night—Saturday night. The weather after this continued moderate, and cleared off perfectly clear. That night I was in the captain's watch. To the best of my recollection, by an observation that was made by the old man at 8½ o'clock that night (Saturday night) by the north star, he said we were in latitude 33° 30′, and longitude 76° 46′ or 48′. The captain was trying to show me how

to work it up. After he had got done working that, I went below about nine o'clock. I stayed below till 12 o'clock. I came on deck at 12 o'clock with Joseph Brown. The captain came on deck too with us. I went forward on the forecastle deck, walking about first one place and then to another. Brown went to the wheel."

Question. You had been below three hours. When you came on deck how was the weather, and how was the night?

Answer. It was a pretty clear night. I don't think a speck of cloud was to be seen when I came on deck. The wind was northwest, and the sea had got down. There was not a very heavy sea running. The heaviest roll, I think, was from the southward and eastward, but the northwest sea was knocking the southwest sea down. When I came on deck the vessel was not going exceeding five knots, and I am not sure that she was going five knots. When I went on deck the vessel was close-hauled by the northwest wind. She had a foresail. The whole foresail, the jib, and the flying-jib set, and a reef in the mainsail because the mast was sprung. The captain said he should not shake the reef any more out of the mainsail before he got in.

When I went on deck, before I took the wheel, she was heading north and north by east—she was on her larboard tack. I continued forward two hours; after that I went and tried the pump, sir, and took the wheel. The vessel had made no water; when I took the wheel she continued on the same track. She headed north by east when I took the wheel. The sails were trimmed flat aft, and she was as close hauled to the wind as she could be. The wind was moderate and from due northwest; we had not a very high sea—a moderate sea.

Question. When you took the helm, in what direction could you see, without obstruction to your sight?

Answer. Well, I could see from about north or northwest, all the way round to east or southeast, as far as I could have a fair view. When I went to the wheel, the man at the helm went forward. I could see on the larboard side. When I was at the helm, I could not see any thing on the starboard side. I could not see on account of the sails being all on that side.

The vessel at that time leaned over to the starboard. I remained at the wheel about half an hour, as near as I could come at it. At that time she ran foul the Steamship Columbus.

Question. Was that the remark you used?

Answer. I don't recollect what I said.

Question. At the time that you had been at the wheel, as you have described, for half an hour, what happened forward?

Answer. I heard a heavy crash, and instantly the wheel turned, flew right out of my hands and knocked me down. I got up as quick as I could and ran forward, and saw that there was a large vessel into us, on our starboard bow, forward of the fore-rigging. I did not see the captain of our vessel. I looked about for something to save myself. I saw that she was in a sinking condition, and I looked up to catch

hold of some piece of her bowsprit rigging, and I got hold of her larboard bowsprit shroud, and got on the deck of the Columbus, by the help of somebody on the Columbus. I did not see the man that was forward. Never saw him again. I did not look for him. I did not see or notice any of the souls of my own vessel. Never looked behind. I heard three of them hallooing out for all hands to clear away the boat. After that I heard the captain sing out, "Oh! Lord, she is going down." He was overboard then. He got overboard by some means, and was alongside of the ship. I could hear him alongside, hallooing for help. I knew his voice, he had a stronger, stouter voice than any of the rest. When I went forward, the bowsprit of the large vessel was right over our forecastle deck.

I should say it was four feet of our forward chains, as near as I can come to it, that she struck us.

I mean the chain plates of the rigging. Our schooner, I should say, was about twenty-three or four feet wide. The bowsprit of the ship was between the jibs of our schooner and our foremast, when the schooner and the ship came together; the schooner was heading north by east. The tiller ran to the leward. The schooner steered with a wheel that worked on the tiller. I am sure that the schooner was close hauled at that time, for every now and then I could her, to see if she would come up any closer to the wind. The schooner had been close-hauled about six hours, I should say. When I got on board of the Columbus, the first persons I saw, to have any knowledge of them, were some Irishmen passengers. I never saw any signal lights on board of the steamer. I saw our vessel sink out of sight, bow foremost (from the Columbus) when she sunk. She was not more than fifteen or twenty yards from the Columbus; she was pretty much right forward of us. I was the only hand saved in all.

Question. From your position on board of the schooner, from the shock which you felt, and from what you saw when you went forward, in what way can you state that the collision took place? [Objected to.]

Answer. In what way it took place, as far as I can state, the schooner headed north by east, and the ship, as I understand, was heading south-southwest. The bows of the Columbus took her about four or five feet, somewhere thereabout, forward of her fore chain. I have sailed altogether in fore and aft schooners. I have shipped, as an able seaman, some eight or nine years.

Question. What was the character and conduct of the captain as a seamen and commander of a vessel? [Objected to.]

Answer. Sir, he was a man that knowed his business as a master of a vessel, and every person that has acquaintance with him give him that name at sea; he was one of the carefulest captains that I have ever been to sea with; I never knew him to lay down with the exception of about twice, that I know of, with his pea coat or jacket off, when he was at sea; he was a very religious sort of a man, a member of the Methodist church in Camden county.

Question. Did he allow any drinking of spirituous liquor on board?

Answer. No, he did not.

Question. Was there any on board?

[Objected to by Mr. Waln.]

Answer. No, sir; there was not any at all. Every evening at six o'clock, he called all hands aft, except the man at the wheel, to prayers.

Libellant closes, and the case is adjourned until to-morrow at 4 o'clock, p. m., at same place.

1849, July 9th, parties meet pursuant to adjournment, present—J. Murray Rush, esq., for libellant, and Waln for , when witness being recalled, comes, and being cross examined by Mr. Waln, says: I went from Charleston home, and have been there ever since. I left home to come here last Tuesday or Wednesday, as well as I can recollect; I arrived, we got here last Friday evening—by we, I mean Mr. Sanderson and myself; we came on together; he knew what I was coming for—to testify in this case. Mr. Sanderson said he was coming on to enter suit against the steamer; he brought me on; I have stayed at the North American Hotel since I have been here; both of us. I have not called up to see any one, I have not found any of them here. I am quite a stranger in Philadelphia; Mr. Sanderson pays my expenses; it is from me that Mr. Sanderson has got all the details of this case. There was a statement of mine published in the Charleston Mercury; that statement I put my mark to, an X; a part of that statement was true; all of it was not true, not to my knowledge; it was read over to me before I signed it. The part about the bobstay in the rigging where I catched hold and saved myself, I told the captain that part was not true; I got hold of the larboard bowsprit shroud, and not the bobstay.

Question. In other respects was the statement correct?

Answer. I did not see any lights on board of the Columbus.

Question. Was there any other variation?

Answer. Not as I know of; I don't know whether there was or was not.

Question. Burgess, when did you last see that printed statement?

Answer. I saw it, I reckon it was last Friday or Saturday, won't be certain which.

Mr. Rush. I think Mr. Rush had the paper; he is the only gentleman of that name I know in the world.

Question. Was Mr. Sanderson present?

Answer. I think he was.

Question. Was the statement, so far as it referred to the Mission, your own vessel, correct?

Answer. I will tell you as much as has come to my own knowledge, as far as I know on the subject. The Columbus ran right on the bow of the Mission; that I know to be correct.

Question. Burgess, was the statement, the printed statement which you have seen so late as Friday last, is it correct?

Answer. I can't understand, somehow or other, I want to speak the truth.

Question. Mr. Burgess, here is the "Old North State," a newspaper handed to me by Mr. Rush, marked [J. B.,] by the commissioner, dated December 28, 1848. Now, Mr. Burgess, this part I am going to read to you, which is as follows: "The Mission was from Rumkey, 8 days, loaded with salt for Edenton, (N. C.); Captain John Cobb and son, 12 years old; T. D. Dowdy, mate; James Chatham and Joseph Brown, seamen, and J. W. Gordon, cook, all of and near Edenton, were lost; Wilson G. Burgess, who was at the wheel, was saved by clinging to the bobstay of the ship. He states that there was but one man with him on deck at the time, who was forward, and must have been asleep, as they did not see the Columbus, which had all her usual lights up. Both of the ship's boats were lowered as soon as possible, to save the crew who were seen after she went down, but the sea being very high, they sunk before assistance could be rendered. Had the watch on board the schooner been discharging his duty, this melancholy accident could not possibly have occurred."

"I have examined the above, and believe it a correct statement of the facts."

his
WILSON ⋈ G. BURGESS,
mark.
Only survivor of the Sch. Mission.

The above extract being read to witness by Mr. Waln, the witness says it is correct.

The captain, Brown and myself, were in one watch, myself and Brown were the only ones on deck when the accident happened. The captain was below at the time of the accident; our schooner was a fine sailing schooner, she sailed very well, prompt to mind the helm.

Question. Your vessel steering easily, as you have said, had you seen the Columbus 15 or 20 yards off, could you have avoided her; and sailing on the course you did, that is close to the wind?

Answer. I don't think I could, sir; for she would come up head to the wind, and the ship would have struck her on the starboard quarter, or somewhere on the starboard side; she would not have taken her on the bow like she did.

Question. Burgess, you don't understand me; you had the wind on the larboard side; you tried to screw, I take it, your vessel as near the wind as possible.

Answer. Yes, sir.

Question. Well then, Burgess, what would prevent you from paying off before the wind; would she not have payed off herself if you had not kept her up by the helm to the wind?

Answer. No, sir; because she would not have time enough to pay her round off to have got out of the way of the ship.

Question. Did you hear the man at the bow at all, before the accident; did you hear him sing out?

Answer. Never heard him at all; I mean on board the schooner. On Saturday the weather was rough weather, and had been a part of

the preceding Friday; on Saturday, half-past ten in the morning, there was an ugly cross-sea running.

Question. You have stated, Burgess, that there was a very high sea running at the time of the accident; was there not at the time a pretty rough sea?

Answer. I did not call it a high sea, sir; it was not smooth, it was not very rough.

The captain is what you may call a fair swimmer; I did not offer to lend a hand to man any of the Columbus boats that night; the Columbus lowered both of the boats.

Question. What prevented the captain (being a good swimmer) from being saved?

Answer. Having on thick boots and a heavy coat.

Question. And yet you heard him calling alongside of the ship?

Answer. Yes, sir.

Question. Did you not say repeatedly, in the forecastle of the Columbus, that had you seen the Columbus the schooner's length off, you could have avoided her?

Answer. If I had seen her a hundred yards off, I could have tacked the vessel, or kept her off.

Question. After you got on board the Columbus, did you see a light there?

Answer. All the light that I saw was when the captain done his writing on deck in his office.

Re-examined by Mr. Rush.

Question. Have you a family; have you property in North Carolina? [Objected to.]

Answer. Yes, sir, I do; I mean I have; I have a wife but no children; I have sixty acres of landed property; when at sea, I rent out my land; I have been married two years the 23d of this month.

Question. You have been asked questions about your signing a paper, and something has been read to you, which you say bears your mark, cut from a paper which I will show to you, and I wish to know whether the part which has been read to you is the whole of the paper which you signed; and I desire to know under what circumstances and at whose request you signed it; look at this paper, (paper shown to the witness, bearing the letters J. B.)

Answer. Witness identifies the paper; the following paragraph being read to the witness:

"From the Charleston Mercury.

"*Loss of the schooner Mission.*

"The steamship Columbus, Captain Peck, arrived at her wharf early on Monday morning, 4th inst., from Philadelphia, which place she left on Thursday afternoon at 4 o'clock.

"On the trip, a most calamitous accident occurred, of which we

have been furnished with the following statement, and which, as will be seen, is verified by the only survivor of the unfortunate vessel.

"Off Cape Look Out, at half-past two o'clock on Sunday morning, December 3, the Steamship Columbus came in collision with the Schooner Mission, of Edenton, (N. C.) The schooner was perceived by the watch on board the Columbus, and fearing a collision, her engine was stopped and reversed, but the schooner being on a wind, and not seeing the steamer, sailed directly under her bow; the wind having just hauled from southeast to southwest, and a heavy sea running, the bow of the Columbus riding over, the schooner sunk."

He says it is the other part of the paper which I signed. It was at the request of the captain of the ship that I signed this paper. Well, sir, I will commence then. Well, sir, I lost all my clothes, and I knew I had no money, and knew I had no friends in Charleston after I got on shore, and I thought it was best for me to sign this piece of writing, for I was among a parcel of strangers, and I did not know what the circumstance might be with me, if I did not sign it; I never had saw a soul on board of the ship in my life, and I found them to be a fine set of fellows, a good-hearted set of fellows.

Question. Where did you sign it, when did you sign it, and who sent for you, and was that the only paper submitted to you?

Answer. I can't exactly say what time of day it was, it was between 3 and 4 o'clock on Sunday, the 3d of December, the same day I came on board; I signed it in the captain's office; the captain, I reckon the captain sent for me; that was the only paper that I seen, to be certain of.

Question. Who was present when you signed it?

Answer. The captain was himself present, and another gentleman; the captain called him Captain Baker, or Mr. Baker; a passenger, I think.

Question. State what the captain said to you, and what you said to him before it was signed.

Answer. Well, sir, when I went into his office he said there was a paper he wanted me to read, and I told him he might read it, as I was a bad hand at reading. He took it and read it aloud to me himself.

Question. After he read it, what did you say to him?

Answer. Why, sir, I got the captain to put my name down, and I put my mark.

Question. Did you say to him, sir, that a part of it was not correct?

[Objected to.]

Answer. Yes, sir; the captain said he had it down, and it was not worth while to alter it, or matter to that effect.

Question. Had you any particular reason, derived from your own experience or otherwise, for signing that paper?

Answer. No, sir.

Question. A part of the paper that you have signed was read to you entire, and you said it was correct—what do you mean by that remark, that "it is correct?"

[Objected to.]

Answer. I mean, by the mission going down sudden, and all hands lost except myself.

Question. I will read you a paragraph: "Had the watch on board the schooner been discharging his duty, this melancholy accident could not possibly have occurred." What have you to say to that part of it?

[Objected to.]

Answer. If he had seen her, and could have told which way she was going, we might possibly have cleared her.

Question. Did you make any objection at first to signing that paper?

[Objected to.]

Answer. I did not, sir. I saw the boats of the Columbus after they were lowered; they were sizeable small boats; they were from fifteen to sixteen feet long; common size, I suppose.

Question. How would such boats get along in a heavy sea?

Answer. Why, sir, they could not have got along in a heavy sea.

Question. What is the reason you did not get aboard to help?

Answer. Why, sir, I was hurt, and almost lost the use of myself; I had my right knee hurt, and my left leg skinned, and my right wrist sprained. I can make out to write, after a fashion, and can read. The reason I did not sign that paper myself was because my wrist was hurt.

Question. If the Columbus had seen the schooner, in what way could the Columbus have moved her helm so as to keep off from the schooner?

Answer. Hard-a-starboard.

Question. If the Columbus had been fifteen or twenty yards off, how much of a movement of her helm would have enabled her to clear the Mission?

Answer. Fifteen or twenty yards—that is close work. I do not think, sir, if she had been put hard-a-starboard, long as she is, with that distance, that it would had very little or no effect.

Question. When the Columbus saw the schooner, if she had put her helm hard-a-starboard in place of reversing the engine, if there had been space enough to steer in, what would have been the consequence?

Answer. Why, sir, she would have gone to the starboard of the Columbus—that is, to the weather of her, and would probably not have touched.

Question. You have been asked about your conversation on the forecastle; did you hear anything said by any of the crew about the course which the Columbus took when she saw the schooner, or the way she worked?

Answer. I did not hear them say anything about it.

Question. Do you know whether it is, or do you know what is, the usage on board vessels in the open sea as to carrying a forward watch?

Answer. Yes, sir; where there is two men in a watch, one takes the wheel, and the other is on the look-out about deck somewhere.

Question. When there are two in the captain's watch, what has

been the general custom, and what is the usage about the captain's being on deck, in vessels that you have sailed in?

[Objected to.]

Answer. In pretty clear weather there is no need of the captain on deck at all. In cloudy weather, or weather that looks stormy or squally, or anything of that sort, if he goes below during his watch, he always tells the watch to give him a call in time in case of squalls, or shifts of wind, or change of weather.

Question. If the watch, the forward watch, had sung out to you before the Columbus struck you, and the Columbus had not kept off, how would you have worked your ship?

[Objected to.]

Answer. I should have put my wheel hard-a-starboard.

Question. How was the wind to the steamer, can you tell?

Answer. About four points free, sir. About four points free means nine points from the point from which the wind blows. That is the way schooners lay up; but I don't know whether a square-rigged vessel like the Columbus will or not. The Columbus had a sail on, I believe they call a fore-spencer; I think it was up. The Columbus had three masts. I don't recollect seeing any but the fore-spencer. The fore-sail might have been loose, but it was not set when I got on board of her.

Re-examined by Mr. Waln.

The Mission had her larboard tacks aboard, and the Columbus had her starboard tack aboard. I told Captain Peck that part of the statement was not correct; I meant about the bobstay, and the lights, and some other things which I don't know whether they are correct or not.

Question. What was those other parts?

Answer. About the watch being asleep. I don't know whether he was asleep or not. There is no other parts that I know of.

WILSON G. BURGESS.

Sworn on the 8th, and taken on the 8th and 9th, and subscribed before me,

J. BURCHARD, *U. S. Comm.*

SANDERSON
vs.
STEAM PACKET COLUMBUS,
James G. Peck, master.
} In admiralty.—Collision.

1849, February 13.—Parties met pursuant to the annexed rule. J. Murray Rush, esq., appears as counsel for the libellant, and Edward Waln, esq., as counsel for the respondent; when James M. Welsh being produced, sworn, and examined, on the part of the respondent, deposes and says: I was thirty-seven years old last June; I am a sailor by occupation; I have followed the sea from twenty-two to twenty-five years; I went to sea as a cabin boy, a boy on the forecastle, ordinary

seaman, able seaman, second officer, first officer, and master. I was on board the Columbus on her last trip in November and December, 1848, from Philadelphia to Charleston; I was on board as first officer. The weather, from the time we left the capes to the time of the accident, was not very pleasant, and we had no observation of the sun. We were navigating by our lead, the land, and our courses. The weather was so heavy on Friday that by the time we came in sight of the light-house the vessel was shipping considerable water, and we kept her away on account of the sea, and blowing heavy from the southward and westward.

A book being produced, and marked J. B. by the commissioner, is shown to the witness, who says: That is my log book, kept on board of the Columbus during that trip, kept by me; it is in my handwriting; put down on the days they bear date. Mr. Waln requests the witness to read from his log from Friday before the accident. (Mr. Rush objects.) Saturday, 2d December, per log. Witness says civil time. (Witness reads the entries.) After which, witness says, no observation that day and none the day before. I have nothing to add to that about weather. On Saturday (sea-time), the wind was fresh, and passing clouds, and sea heavy, inclining to clear away; that night and Sunday morning the wind was southwest, west, northwest, and variable. I came on deck at twelve o'clock Sunday morning; that was my watch; my watch was from twelve to four. I was from one end of the ship to the other, seeing that my men were keeping a look out forward, and looking out myself; looking to the steering of the ship, and the winds. I was standing on top of the skylight about half-past two; I was looking out for the light of Lookout light-house. The coast is a dangerous one along the shoal. There are various opinions how far the shoals extend; some say twelve and some fifteen miles out to sea. The men on the forecastle sang out, A sail! I jumped down off the skylight, and told the engineer to stop the engine. The engine was stopped. I went forward; I see the vessel on our larboard bow, from a point to a point and a half.

Question. Mr. Welsh, what is usually done on board the Columbus, or on board steamships, when the watch sings out, A sail! and particularly at night?

Answer. I don't know what they do aboard other steamships, but on board of the Columbus, if we see a vessel at night, three or four points on either bow, we stop the engine until we see what course the vessel is going, that we may know which way to go clear.

Question. After the engine was stopped, what did you do?

Answer. After the engine had been reversed I went forward, and saw the vessel, as I said before, a point or point and a half on the larboard bow. I had the engine backed; the ship backed as hard as they could back her.

Question. What kind of a night was it, as regards the starlight or moonlight?

Answer. It was a starlight night, sir.

Question. Well, sir, what took place?

Answer. She sailed on—never altered, never altered her course—under our bow.

Question. At the time of the collision, was the steamer stationary, had she headway on her, or was she backing?

Answer. I think the ship was laying nearly dead in the water.

Question. Proceed, Mr. Welsh, and tell us all about it.

Answer. I think the schooner's fore-stay mast must have broke our jib-boom off. The jib-boom of the Columbus was broken off. I think she must have struck us, sir, with her starboard cat-head on our cut-water, as the bolts in our stern were bent a-starboard; the bolts of the lower cut-water were knocked away; the lower part of the gripe, near forward, is something over to the starboard from the collision. The schooner's sails kept pressing her under our bow, and the sea that was on being pretty rough, the Columbus rode her down. When I heard the crashing, I went aft, set some of my men to clear the boats. I went forward again. I asked the man that was on the schooner's decks——

[Mr. Rush objects, at this point, to evidence being offered by the respondent, of the conversation of any person or persons on board of the Columbus with the man on board of the Mission, (that is, Wilson Burgess,) unless offered to contradict the said Burgess upon some point referred to in his own evidence before the commissioner.]

I asked the man who was on the schooner's deck where they were from. He told me they were from Rum Cay. I asked what cargo they had in, and he told me salt. I saw the schooner was cut so bad he had better take hold of the ship. I told him three or four times before he would take hold; he seemed to hesitate until I told him three or four times; the man might have been confused. (This was Burgess.) When I saw him take a hold of our bowsprit's head, as the Columbus plunged, I sent my men out to pull him in, to assist him.

Question. Mr. Welsh, you have used the expressions of "she rode her down," and "as she plunged;" just describe the effect of the Columbus's pitching.

Answer. The Columbus being so much higher in the water, there was the whole weight of the ship's bow to come down on the schooner, her cut-water projecting—I mean the cut-water of the Columbus—and her chain bobstay. Her chain bobstay is equal to a saw upon wood, until it was broke in riding, the schooner pressing under our bow.

Question. What caused this plunging you have spoken of?

Answer. The heavy sea; it had been blowing heavy; the morning before, that was on Saturday morning, civil time. I saw the schooner was going to sink. I ran aft and got into our starboard quarter boat, and the carpenter of the Columbus with me.

Question. Did you ask any of your hands to go with you in the boat?

Answer. The men were backward, sir; the next day (one of the hands said he would not go, the sea was too high, it would have risked

his life, or something to that effect. Objected to.) [This last conversation objected to.]

Question. What became of the other boat of the Columbus?

Answer. After I had got up to the wreck, I see the other boat a coming; I pulled round and see no one, or heard any one. I hallooed, I had heard a man hallooing on the wreck. I hallooed to him, "My good fellow, hold on, hold on."

The carpenter, John Monroe, was with me. After I got up to the wreck, I saw, what I supposed to be, one of her mast's heads. I kept the boat laying head to sea for some time, but see no one, nor heard no one, and then returned to the ship.

Question. When the schooner went down, how were her bearings towards the ship, ahead or aside?

Answer. Ahead, sir. I should judge about fifteen or twenty feet from the Columbus's bow.

Question. When you returned to the ship in the boat, have you any means of judging of the height of the sea?

Answer. I knew the ship was a rolling very heavy. It was some time before we could get the boat hooked on. When she would roll off from the boat, I could see her copper as much as five or six feet from the top of the copper down amidships. I had it in my mind, one time, to leave the boat and go aboard by a line, as the boat was near stove two or three times.

Question. What do you mean by stove?

Answer. I mean the boat being broke to pieces by the ship and by the sea.

Question. What kind of boats are those of the Columbus?

Answer. Two very fine boats. One boat is twenty-one feet long, and the other twenty. They are about right for that kind of a ship, like the Columbus. There was lines thrown in every direction round the ship. I had one spare oar in the boat, and I hove that out. There was every thing done, sir, that could be done.

Question. Is a vessel laden with salt, in bulk, more apt to sink suddenly, than with different cargo as merchandise?

Answer. A vessel would sink quicker with salt than with an assorted cargo. With cotton they would not sink at all, or with lumber.

Question. How far from land was you when this accident happened?

Answer. I should judge, from eighteen to twenty miles.

Question. How far was you, sir, from cape Look-Out breakers?

Answer. I should judge we were about ten miles.

Question. Do you know any thing more of Burgess' movements, after he came on deck, of consequence in this case; for instance, he has stated the first persons he saw on deck were some Irishmen? [Objected to.]

Question continued. Were there any Irishmen on deck?

Answer. I don't know. One passenger had the mania-potu below. I had the scuttles closed fast, to keep this man from getting overboard.

I think the first men that Mr. Burgess seen, were the men who helped him on board. [Objected to.]

Question. State Mr. Welsh, if you please, what part of the cut-water of the Columbus was damaged, above or below?

Answer. It was about the water's edge, and above where the ship rode.

Question. Where was it repaired?

Answer. In Philadelphia, on return of the ship.

Question. Was any repairs done to it at Charleston?

Answer. None, except cutting off the ragged bolts that was turned; one that was bent.

Question. What was the course the Columbus was steering when the accident happened?

Answer. Southwest, sir.

Question. Was there that night any signal-light on board of the Columbus, and if yes, describe it?

Answer. Yes, sir; a globe lamp was lit, which we usually carry on starlight or moonlight nights, and all the state-rooms was lit. I know by the boat I was off in.

Question. State, Mr. Welsh, how the state-rooms of the Columbus were lighted; how do you see from the outside?

Answer. The light shows through the glasses, which are about eight inches in diameter. The glasses open out on the sides of the ship; every state-room has a light. I don't know how many state-rooms there are; there must be ten or twelve, or more. We could see these lights three or four hundred yards,—all of that, a quarter of a mile I should judge.

Question. Mr. Welsh, just state, if you please, what was done by the officers and crew of the ship, for Burgess? [Objected to, as the libellant does not allege any unkind treatment by the officers and crew of the Columbus to Burgess, personally, and as otherwise irrelevant.]

Answer. Everything was done that could be done, to make him comfortable. Some of the passengers got up a subscription; all the officers gave two dollars apiece, and the sailors and firemen of the ship's company came up without being asked, and gave each a dollar. The sailors got canvass from me, and filled it with clothing. The amount of money he got, was $72 75.

Question. How was the wind?

Answer. It was north-northwest and variable, so that we could not carry our square sails. The wind was not free; had it been, we should have had square sails on her.

Adjourned Thursday the 15th Feb., 1849, at same time and place.

1849, February 15th, 4 p. m., same party, with the exception of the counsel for libellant, being present; the further examination of James Welsh is postponed until the 17th of February, at same hour and place.

1849, February 17th, 4 p. m., same parties met, when the examination is resumed.

Question. Mr. Welsh, what kind of observation can a sailor get from the north star, in a southern latitude?

Answer. Not very correct, unless the horizon is perfectly clear, then he may get within five or ten miles.

Question. It has been testified, Mr. Welsh, that the Mission had her larboard tacks aboard; on which side of the wheel would the man at the wheel stand?

Answer. He would stand on the weather side, which would be the larboard side.

Question. Mr. Welsh, could a wheel, flying to the starboard, knock down a man standing in that position? [Objected to, because Burgess has not stated that he was knocked down by the wheel, but that he was knocked down.]

Answer. It could not knock him down if he was awake, paying any attention to the wheel; the tiller would fly to the leeward, and the wheel would turn to the windward. It is impossible for a vessel's wheel to throw a man to the leeward when the helm flies down.

Question. State your experience about the conduct of sailors at the wheel.

Answer. Some men are very indolent at the wheel; I have had frequently to awake men up on it, where a vessel steers easily.

Question. What expedients have you known placed upon the wheel to prevent men from sleeping on it? [Objected to.]

Answer. I have known nails tacked on to pieces of leather, like a dog-collar, fastened on to the stanchion, to keep a man from laying on the wheel.

Question. Mr. Welsh, have you ever sailed out of Edenton?

Answer. Yes, sir.

Question. Is it the resort of many sailors? [Objected to.]

Answer. No, sir.

Question. What is the character of the Edenton sailors? [Objected to.]

Answer. Well, I never could get any good men there. I had a black man as mate for me when I sailed out of there as master—a black man I got out of Philadelphia, until I got to the West Indies.

Question. In what capacity did the black man sail with you from Philadelphia?

Answer. A sailor, sir.

Question. What do you call at sea, ahead, a sail ahead?

Answer. When we see a sail a point, a point and a half, or two points on either bow, she is generally called ahead.

Question. Where was Captain Peck at the time of the accident, Mr. Welsh?

Answer. He was below at the time the sail was made, and he came on deck when I halloed to the engineer to stop the engine. I think he was on deck before the collision; I can't say that he was on deck at the collision, but about the time.

Question. Mr. Welsh, a vessel hauled as close as the Mission was said to be, how much would she lean?

Answer. With salt, and with her beam, she ought not to have leaned more than one streak, with what wind there was.

Question. Had the Mission, Mr. Welsh, seen the Columbus when the Columbus saw her, would there have been time for her to wear off or gone about? [Objected to.]

Answer. Yes, sir; she could have went either side of us.

Question. What length is the Columbus?

Answer. One hundred and sixty-five feet.

Question. Mr. Welsh, how long is a long vessel as the Columbus in coming round?

Answer. It depends altogether upon the sea, sir.

Question. As the sea was that night?

Answer. She would not go round very fast that night.

Question. Just explain that a little more definitely.

Answer. On account of the ship not having so much headway, on account of the heavy sea that was on.

Question. Would she be prompt or sluggish? that is what I mean.

Answer. She would not be very prompt or very sluggish, as we did not try the ship when we seen the vessel; we backed the ship, as we did not try to go any way, so that the schooner might go either side of us.

Question. What is about the size of that place which Burgess called the captain's office.

Answer. I judge it is about six or eight feet square; it was formerly a wheel-house.

Question by Mr. Rush. On the after deck?

Answer. No, sir, forward.

Question. How is the office constructed?

Answer. There are windows all around; there is two panes of glass in each window, eight by twelve; two doors; a glass in the upper part forms the windows, two panes wide, and one pane high; then there is a strip and other glass in the same way. On the forward part and after part, the glass are three panes wide; two-thirds of the height are wood, and the one-third glass, which slides down.

Question. Was there any crash? and if yes, what? when the accident happened?

Answer. Yes, sir, there was a crash when the Mission came under our bow, as our bow fell with the sea; there was no jarring to our vessel.

Question. Mr. Welsh, had you been S. S. W., where would it have taken you to? [Objected to.]

Answer. It would have been two points out of our course, and it would have taken us into the Gulf Stream.

Question. Captain Welsh, did you ever sail in a vessel when all the officers went below, and left the vessel in charge of the sailors on deck?

Answer. Not where we were running in for land, sir, as it is not a

customary thing, sir. It is customary in vessels I have been in, to have an officer on deck at all times.

Question. You have stated in some cases, that has been done, viz: all the officers to be below.

Answer. When the officers are fatigued out; but I never knew it when running for land.

Question. Is the approach to land an occasion requiring vigilance, or otherwise?

Answer. It requires vigilance and watchfulness, and a good watch.

Question. What kind of conduct would it be for all the officers of a vessel to be below, when approaching or expecting to make land off a coast abounding in shoals, and where there had been no observation of the sun for three or four days? [Objected to as implying a state of facts not yet proved by evidence, and as otherwise irrelevant.]

Answer. The conduct would be very bad, sir.

Question. Would it be vigilance or carelessness?

Answer. Carelessness, sir, and neglect of duty to the cargo, vessel, property, and lives put in his charge; that is, the charge of the captain.

Question. Mr. Welsh, had the watch on board the Mission been attending to his duty, could the accident have occurred?

Answer. I don't think it could.

Question. Mr. Welsh, have you worked up in the chart from Burgess's statement of latitude, longitude, and time, when the calculation was made the preceding evening, on board the Mission?

Answer. Yes, sir; from half-past eight to half-past two in the morning, allowing the schooner to go about five knots, as he says, it would place him (Burgess) thirty-three miles to the southward and westward of where the collision took place; the collision took place to the northward of Cape Lookout shoals—whereas, if their calculations had been correct, they would have been fifteen or twenty miles to the southward and westward of the shoals; or, in other words, he was thirty-three miles out of his reckoning.

Question. Mr. Welsh, were you present when Mr. Burgess signed the statement?

Answer. I can't say whether I was or not. I was in and out of the office at the time. I see Captain Baker there, and several of the passengers; they were going in and out all the time, sometimes to read, and sometimes to write; the doors both open all the time, in pleasant weather hooked back.

Question. Mr. Welsh, Burgess says the wind was north-northwest, and the schooner steering north and north by east; how many points from the wind would that bring the schooner?

Answer. It would bring her between two and three points.

Question. How near can a pilot boat lay to the wind, and go five or six knots?

Answer. That would depend upon the wind.

Question. Such a wind as there was that night?

Answer. Even a pilot boat nor any other vessel can't lay three points to the wind, and go through the water five or six knots.

Question. When is a schooner close hauled?

Answer. When she is five points from the wind.

Question. Mr. Welsh, what would be the distance in still water from the deck of the Mission to the place where Burgess hooked his arm over on the bowsprit shroud of the Columbus? [Objected to.]

Answer. I should judge it was about fourteen or fifteen feet, sir.

Question. Mr. Welsh, has Burgess ever told you anything about the watch of the Mission, what he was doing? [Objected to.]

Answer. Yes, he told me he was at the wheel, that he could not see for the sails; and the man on the lookout must have been asleep, or he would have seen us. He said when he heard the crash he let go of the wheel and run forward.

Question. Had you been using your lead that evening on board of the Columbus?

Answer. Yes, sir, we were feeling our way; we always heave the lead before we get up to the shoals, and until we have passed them.

Question. Mr. Welsh, is there a usage at sea regulating the movements of vessels with their larboard tacks aboard and starboard tacks aboard—is there such usage?

Answer. I believe there is in some parts; I don't know that there is on this coast; it exists in England; I believe it does in the British channel.

Question. Is it confined to the British channel or British commercial marine?

Answer. I do not know, sir.

Question. Well, now what is the usage, captain?

Answer. Vessels on the larboard tack give way to vessels on the starboard tack; a vessel with a fair wind gives way to a vessel on the wind.

Cross examined by Mr. Rush.

Question. How long have you been connected with the Columbus?

Answer. Over a year before the accident; I don't recollect how many trips I had made in her; I have been in her every trip she has made. I think it was last December was a year I joined her; she was then in this port; she was built down the river; I had taken more than three voyages before the accident; my log-book will tell. I have sailed in steamboats before I sailed in the Columbus, but not in steamships. A steamboat was not the last vessel I sailed in before I joined the Columbus. It was in 1837 or 8 that I was on board a steamboat, and in December, 1847, when I joined the Columbus. On board the steamboat in 1837 and 8 I was the second officer. I sailed from Mobile to Tuscaloosa; her name was the Ivanhoe; I don't recollect how many months I was employed on the Ivanhoe; I did not like it, and quit it, I joined her as second officer.

I had never been on board a steamboat as an officer or hand before

I joined the Ivanhoe. I don't think I was on board the Ivanhoe over three months.

As second officer of the Ivanhoe I had to keep a lookout or watch of the boat when she was running, and see to taking in cargo and out; no other duties that I recollect.

Between leaving the Ivanhoe and joining the Columbus, I sailed from schooners up, in every rig except a ketch or a sloop, and in the capacity of mate and master during that time; I was first mate and master during the whole time. I was never master of a ship during that time. I was first mate of a ship during that time.

After I came home in '38 or '39, I took charge of the brig Tacon; I left the Archer, where I was first officer, to take charge of the Tacon. After the Tacon was lost, and nothing to do, I went out as mate.

Question. When you joined the Columbus, had you any other knowledge of the duties required from the officers of a steamship with reference to the working her by her machinery and sails conjointly, than that which you derived from your connection with the Ivanhoe?

Answer. I don't know that there is any required; a man that is capable of taking charge of any ship's deck is capable of taking charge of a steamship's deck, sir. All the difference is, that the steamship can furl her sails and go on her course, when the sailing vessels can't go on their course.

Adjourned to Tuesday, 20th February, at 7 p. m.

1849, February 20th, 7 p. m. Parties met pursuant to adjournment. Present—J. M. Rush, esq., for libellant, and Edward Waln, esq., for respondent. Examination proceeds. Witness says:

Question. You say that a steamer can go on her course with her sails furled when a sailing vessel is not able to do so. Is not the steamer, when sailing under these circumstances with a press of steam on, as favorably on her course as a sailing vessel with the wind free?

Answer. In what respect, sir? I don't understand the question.

Question. With reference *with* her forward course?

Answer. That depends upon the wind, sir.

Question.—Is not a steamer, under these circumstances, with her steam on, able to get along in the water as snugly as a sailing vessel without steam with the wind free?

Answer. If we are going head to wind in a sea, I have seen the Columbus not go two knots an hour, at the same time a sailing vessel could go ten knots with the wind free.

Question. Is not a steamer better able to manœuvre by the use of her steam and her paddles to shift her course and make headway, than a vessel sailing on a wind?

Answer. That depends upon the wind and sea that is on. The Columbus has no paddles.

Question. If, in place of backing the engine, you had altered the helm to larboard or starboard, as the case might have required, would not the steamer have gone through the water, although in a different

direction, at the same rate at which she was going before you backed her engine?

Answer. If I had shifted my helm, and it had happened to be the wrong way, it is not likely there would have been a soul saved out of the schooner, and very probably the Columbus sunk too, if they had come together. There was upwards of 150 souls aboard the Columbus. If she had went down, sir, there could have been very few saved. If the captain on board of the schooner had been on deck, sir, attending to his duty, the accident never would have happened.

Question. You have answered my last question with some feeling, and by volunteering reflections upon the captain of the schooner not necessarily suggested by the question. What is your reason for the opinion you have expressed in your last answer?

Answer. I will tell you my reasons. My reason for the opinion is, sir, I consider it any captain's duty, when he is running in for land, to either be on deck himself, or have an officer on deck to keep a lookout for the vessel, as they endanger other people's lives, and others, too, in cases of collision.

Question. I will call your attention from remark upon the duty of captains to the conduct of your own ship on the particular occasion of the accident, and I ask you again, if you shifted your helm in the right way, without backing your engine, would not the steamer have gone on in an altered course, but with the same headway that she had before you backed the engine?

Answer. If I could have told which way the schooner was coming, and put my helm to port, I might have cleared her; and if I had put it a-starboard, very likely we would went right over her.

Question. What was your day of sailing from Philadelphia on that trip when the accident took place; for I suppose, as the steamer was a regular packet, she had a regular day?

Answer. Thursday is the regular day for sailing from Philadelphia, and the log-book will tell the date.

Question. Were you not, on this trip, when the accident took place, behind your time?

Answer. Yes, sir, on account of heavy weather. There was so much sea when we got up to Cape Hatteras we would not go round the Cape, the vessel was shipping so much water over bows.

Question. Had you left Philadelphia on your regular day?

Answer. I can tell by looking at the log. [Witness refers to his log, and says, "Yes, sir, we left Thursday; 3 o'clock in the afternoon we cast off from the wharf."] (Our crew consisted,) we generally have six men before the mast. The Delaware pilot (with us all the way,) the captain, myself, second mate, the carpenter, and the cooks and stewards. Sometimes we have seven or eight stewards. It was on the 30th of November when the Columbus left the wharf at Philadelphia, and we arrived in Charleston on Monday, the 4th of December. We leave Philadelphia one Thursday and Charleston the next. Capt. Peck built this vessel, or superintended the building of her, and

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has commanded her ever since, except one trip to Charleston and back. I have no interest in this vessel—none whatever.

Question. Do you know about what latitude and longitude you were in when the accident took place?

Answer. We were in about latitude 34° 28′ north, and 76° 69′ west longitude.

Question. Were you north, or south, of Charleston?

Answer. We were north'ard and eastward of Charleston and Lookout shoals, and we were about ten miles northward and eastward of Cape-Lookout shoals, and I suppose about 18 or 20 miles from land.

Question. About how far north were you from Rum Key, or what was your direction from Rum Key?

Answer. I have been to Rum Key. I don't know the distance; don't recollect what latitude and longitude it is, but it was southward of us—little to the eastward. I am not sure.

Question. Do I understand you to have said that the steamer had her starboard tack aboard at the time of this collision?

Answer. We had our starboard tack aboard.

Question. Do you mean also, that I am to understand that the steamer was close-hauled?

Answer. So close that we could not carry our square sails.

Question. You have said that before; but do you mean that she was what is called close-hauled and by the wind at the time of the accident?

Answer. Yes, sir, with us, or we would have had our square sails set. The wind was west-northwest, and variable.

Question. When you say variable, what do you mean?

Answer. Variable one or two points, either way, to the north or south.

Question. Had you at the time of the collision a head sea?

Answer. Yes; we were making eight nots—may be more, may be less.

Question. Had the schooner a head sea?

Answer. No, sir, the schooner had the sea from the southward, and was coming with the sea. I don't know that the schooner was close-hauled; I suppose she was.

Question. Could the steamer, if she had been a sail ship, without steam, have made seven or eight knots at that time with a head sea and a head wind?

Answer. Not easy, sir, unless she had been very fast.

Question. Do you think with such a sea and such a wind, without any steam, she would have made over four knots?

Answer. Yes, sir, about six knots. I think the Columbus would not have made over four or five. We would have had our wheel to drag.

Question. You say the steamer has no paddles; upon what principle does she work?

Answer. She works by a propeller (Loper's propeller.) She steers

aft on deck. When she was first constructed she steered forward. The alteration was made because she steered easier for the man who steers. She has one engine; I don't know what power. She has three masts. At the time of this collision we had our fore and aft sails up. Joseph Parry is the first engineer and John Dick the second. I did not name them before. Our ropes from the wheel to the tiller—or tiller-ropes—are manilla hemp.

Question. How many were in your watch at the time of the accident—can you recollect?

Answer. I don't recollect; I generally had three men and the carpenter.

Question. Had you not your full compliment of men on board the steamer at this trip? I had understood you to say that you left here with six men before the mast, and the carpenter.

Answer. There was one or two trips that we were one man short, but which one I can't say. We carry a large crew for our ship.

Question. Then you did not intend to say, that when you left here on the 30th of November, 1848, that you had your full compliment on board; for I now understand that you are uncertain on that point?

Answer. Yes, sir, I am uncertain.

Question. I will thank you to try to recollect, and tell me how many men, besides yourself, composed your watch at the time of the accident.

Answer. Well, it has been so long I can't recollect; there was three or four.

Question. This accident must have made a great impression upon you, and you seem to have recollected with great accuracy many facts which preceded and followed the collision, and it is not three months ago; why can you not recollect more distinctly about your watch?

Answer. We have so many men about the ship, and changing when they get tired, that it is impossible for me to recollect. There are other things I will recollect as long as I live—the things I have told you about the disaster.

Question. You have not answered my last question; I wish to know all about the condition of your ship's company on deck at the time of the collision; and I ask you again, can you tell me, or can you not, how many men composed your watch on the particular night of the collision?

Answer. My men, sir, that were on deck were attending to their duty on the forecastle, and can't say whether there was three or four; but there was either three or four.

Question. Where was the carpenter?

Answer. He was on the forecastle.

Question. Did you see him?

Answer. Yes, sir.

Question. What were the names of the other men of your watch?

Answer. I don't recollect; there is one man we call Peter; the carpenter's name I did not know till the other night.

Question. Did you bring the same men from Charleston that you took from Philadelphia?

Answer. There is one we did not bring, but we brought another in his place; he went captain of a schooner. Besides Peter and the carpenter, I don't recollect the names of the men who were in the watch that night. There is scarcely a trip but that some men leave, and we get others in their places.

Question. Who was at the wheel of the Columbus at the time of the collision?

Answer. That I don't recollect; I don't recollect whose wheel it was; I don't remember whether Peter was at the wheel.

Question. How do you know the carpenter was not at the wheel?

Answer. It was his voice I heard sing out "A sail!"

Question. If you do not recollect how many men composed your watch, or the names of your watch, will you tell me what posts or places on deck it was their duty to take when they came on deck?

Answer. Whose ever wheel it is, takes it; the rest goes on the forecastle, sir, and keeps a lookout from each bow.

Question. When you went forward, after the cry of "Sail ahead!" you have stated you saw the carpenter; where was he standing?

Answer. He was standing on the forecastle, amidships, or on the starboard bow—I don't know which.

Question. Did you see any other hand on the forecastle?

Answer. Yes, I saw another hand on the forecastle, by the carpenter.

Question. You have stated you were on the sky-light when you heard the cry of "A sail;" did the man sing out more than once to you?

Answer. I don't think he did.

Question. Did you ask the man who sung out, which way the sail was?

Answer. I might have asked him; but, when a sail is cried, I always run, sir, to look where it is; and the engineers generally stand right by their engines.

Question. If you had asked the man where the sail was, and had given orders to your engineer soon as you received his answer, would not your backward motion have commenced sooner than by your waiting to run forward and then give the order afterwards?

[Objected to.]

Answer. I had the engine stopped before I went forward; and soon as I went forward I ordered her back, and the engine was reversed.

Question. Do I understand you to say that it is the duty of an officer of the deck, before giving any order, after his forward watch, sing out "Sail ahead," to go forward himself to see where the sail is?

[Objected to.]

Answer. I gave my orders before I went forward.

Question. What is the duty of an officer of the deck at night when his forward watch sings out "A sail ahead?"

Answer. To do every thing in his power to keep from a collision.

Question. I wish my question answered more specifically; and I therefore ask you, when the forward watch sings out "A sail ahead," in what way would a good officer of the deck proceed to do all in his power to prevent a collision?

Answer. In a sailing ship, sir, it would be his duty to go forward himself and see the position of the other vessel; which ever way he thought he could clear them; he would order the helm to be shifted which ever way he thought he could clear him. If he thought he could not clear him, he would throw his sails aback. On board of a steamship, he would have the engine stopped, and then go forward, and if he seen he could clear the vessel he would shift the helm which ever way it was required; if he thought he could not clear him, he would reverse the engine and back her.

Question. Then I understand that you reversed the engine because, after going forward and seeing her (the schooner) on your larboard bow, you thought you could not clear her by shifting the helm—is that so?

Answer. Yes, sir; because I did not know which way he would put his down; by our backing, he could have cleared us either way, provided he had seen us.

Question. If the schooner had not altered her course, and when, after going forward, you had seen her on your larboard bow, you had put your helm hard aport, would you not necessarily have passed her?

Answer. Well, I don't think we would; I think she would have struck us somewhere about our engine.

Question. Have you not already said that under that state of facts, with your helm aport, you would have passed her?

Answer. I think I said we might possibly have passed her, sir.

Question. In what part of your ship is the engine?

Answer. In the after part, sir.

Question. How near the stern?

Answer. About one-third of the length from the stern; I don't think it is that.

Question. I ask you again, as a sailor, if your helm had been to port, and the vessels had came in collision, as you say they might about the engine, would not the Columbus, from the fact of having her helm hard aport, have glanced alongside of the schooner without any serious damage, if your own theory is correct?

Answer. The length of the Columbus, from the time the man at the wheel of the schooner would see the Columbus's jib, and been uncertain which way to put his wheel, and it is hard to tell what damage would have occurred, as we have had one trial respecting that by a schooner in the same position, which struck us abaft of our engine, by putting his helm to port, when, if he had kept his vessel on her course, he would have cleared the Columbus; the schooner was very nigh sinking herself; if it had been rough weather, she would.

Question. Do you mean to say that you have had one trial from a

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collision under the same circumstances as those which attended your collision with the Mission, because I do not quite understand your last answer?

Answer. Not a trial at court, but a trial to keep clear of a vessel, and to avoid a collision.

Question. Then I understand you mean to say that your vessel and the schooner were approaching each other in the same general way in which the Mission and your vessel approached each other?

Answer. Yes, and from what I understand, Captain Peck was on deck himself.

Question. If the Schooner Mission had kept on her course without any deviation, as I have asked you before, is it not more than probable, that if you had put your helm to port, you must have passed her without a collision; I say more than probable, for nothing is certain?

Answer. She might have passed her, and she might not.

Question. What in your opinion *what* was the duty of the schooner Mission when you ran forward and saw her on the larboard bow?

Answer. I don't know what the duty of the schooner was, it was the duty of the men on board to keep a lookout.

Question. If they had seen you when you saw her, what, as a sailor, would you say it was her duty or the duty of her commander to do?

Answer. Either to put his helm hard up or hard down, according to the best of his judgment.

Question. And you still think it was your duty under those circumstances to back your engine?

Answer. I do.

Adjourned till to-morrow at 4 o'clock, p. m., at same place.

1849, February 21, parties met pursuant to adjournment: Mr. Rush present for the libellant, and Mr. Waln for the respondent; when Mr. Welsh, the deponent, appears, and his cross examination is resumed.

Question. Then I understand (to sum up this question once more) that on a steamship, (and my question now has no reference to sail vessels,) when the officer of the deck at night hears the forward watch sing out a *sail ahead!* it is his first duty to run and look for the direction of the sail before giving any order; do I understand you correctly? [Objected to as predication of a state of facts not in evidence.]

Answer. I always stop the engine when a sail is cried; we always do here in the river until we discover their position.

Question. Then do you mean that the first duty of the officer of the deck under such circumstances is to stop the engine before doing anything else?

Answer. I do, sir; if we did not stop our engine, there would be many vessels we should have done a good deal of damage.

Question. When the engine of a steam vessel is backed, is it not necessary, before the vessel is made to move backwards, that her forward motion must in the first instance be entirely stopped, and the vessel remain motionless until her backward motion begins?

Answer. If you stop a vessel's engine and then reverse it, certainly the vessel will lay still in the water before she begins to go astern.

Question. How long would she lay still, and upon what would the length of time depend?

Answer. I never took notice how long, but the time would be very short, sir.

Question. How long a time would elapse when a vessel going 7 or 8 knots, and having her engine stopped and put back, between the order to stop the engine and the commencement of her backward motion? Answer to the best of your ability.

Answer. I don't know, sir; we have never had occasion to note the time.

Question. Do you not think that it would take to stop her forward motion entirely, bring her to in the water, and commence her backward motion, from 5 to 10 minutes?

Answer. I cannot say, sir; a time like that, we never can look at time to take notice; we are generally watching the motions of the other vessel when they are in sight of us; I can't stop looking at the other vessel to go and look at the watch to see what time it is.

Question. Your answer is certainly not called out by my question. I don't refer to the particular occasion of this collision, or any other particular occasion, but I will give you a plain question as a practical sailor. Now I ask you to tell me, to the best of your knowledge, how long you think it would take a steamer going under such wind and water as the Columbus had at that time to stop her engine, lay still in the water, and commence going backwards?

Answer. I can't form any idea; I never took particular notice in the ship to be able to answer.

Question. If your helm had been put to port, would not her altered motion have commenced without any loss of time?

Answer. Yes, sir; she would have commenced as soon as she moved her helm.

Question. You have stated that when you went forward you saw the vessel one or two points on the larboard bow; how much is a point; what distance?

Answer. A point is a point on the compass; the compass is divided into thirty-two points.

Question. Do you know how much distance is estimated to be covered by a point?

Answer. It depends upon the distance of the object, sir.

Question. When you first saw the schooner, state how far you think, when your eye first struck her, she was from you?

Answer. She might have been two hundred yards, she might have been three hundred yards or four hundred yards, but I don't think she was much over two hundred yards.

Question. Was she close on to you; could you see her distinctly?

Answer. The way her sails showed, you could not see her very plain;

the sails were showing upon an angle to us, and we were sailing on southwest, and she was a point or a point and half on our lee bow.

Question. Then you could not see the vessel distinctly, in consequence of the sails; but could you see the sails distinctly themselves, when you went forward?

Answer. I could see her sails edgeway toward me, and as plain as you could the sails of a common vessel in that direction. I saw she was a schooner as soon as my eye caught her.

Question. When you first saw her, on running forward, I suppose you were near enough to hail her.

Answer. We might have made them hear with a speaking trumpet, but the noise of the vessel going through the water would have made a difference.

Question. But you do not mean to say that with the trumpet there would have been any difficulty in making the schooner hear you, if, as you seem to think, without having measured it, that the schooner was about as far off from you as Mr. Waln's house from Seventh street.

Answer. I think there would have been a difficulty in making them hear, as Burgess states the men must have been asleep on board the schooner.

Question. But if the men had been awake, what I mean to ask you is, was not the distance such, that through a trumpet properly used, the voice could have been thrown from the Columbus to the Mission?

Answer. It might, if it was not for the noise of the water under the schooner's bow.

Question. The schooner is said to have been going five knots; now, Mr. Welsh, if you had been on board of that schooner and awake, discharging your duty, could you not have heard, to the best of your opinion, a voice from the Columbus, thrown to you through a trumpet, on that night?

Answer. I might, sir, and I might not; it would depend where I was.

Question. Just state, if you can, according to the best of your knowledge, how long a time elapsed from your hearing the cry of a sail, when on the skylight, to the collision?

Answer. I can't form any idea, sir, of the time.

Question. When had the captain's watch gone below?

Answer. He is generally up during the night, when we make the shoals. Off or on during the night, my watch relieved the captain's watch at 12 o'clock.

Question. Has the captain any regular watch?

Answer. Yes, sir. The starboard watch belongs to the captain; mine was the larboard watch.

Question. You say you saw the captain about the time of the collision; did you see him as he came on deck, or after he came on deck?

Answer. He was on deck when I see him, sir.

Question. How long before that had you seen him?

Answer. I think he was on deck when I came on deck at 12 o'clock.

Question. How long did he remain on deck, when he came on deck at 12 o'clock with you?

Answer. The best of my knowledge he went below when I came on deck; he generally goes below when I relieve his watch.

Question. You have used the expression, or so I understand it, dead in the sea; was the Columbus at any period of this transaction in that situation?

Answer. Yes, sir; to the best of my knowledge she was laying as a vessel would lay to anchor on a sea way, at the time the collision took place.

Question. Was this before or after the captain came on deck, that she was dead in the sea?

Answer. The captain must have been on deck before that, for he answered me, when I sung out the second and third time, to back as hard as they could back, "they were backing."

Question. If the vessel was as you have described it, dead in the sea, a term which you have sufficiently explained to us, had she any backward motion?

Answer. A vessel laying dead in the sea could not have any backward motion, any more than the motion of the sea.

Question. Then had the Columbus any backward motion, notwithstanding your order to back, after the order was given?

Answer. Yes, sir.

Question. When?

Answer. After the collision she went back.

Question. Had she backward motion before the collision?

Answer. To the best of my judgment, sir, she was laying dead in the water at the time of the collision.

Question. Which of the two vessels was to the windward?

Answer. I think, if any thing, the schooner was to the windward. I consider a vessel to windward when she lays close enough to the wind to cross another vessel's bow.

Question. Were both these vessels close-hauled?

Answer. The Columbus was, sir, and I think the schooner was, too, as far as I could see.

Question. You have said that at the time of the cry of "sail" the Columbus was steering southwest; was her course ever altered from that time up to the moment of the collision?

Answer. I do not know, sir, southwest was her course, as I did not look at the compass to see whether her head swung either way at the time of the collision.

Question. Would the man at the helm have had any right to alter her course without your order as the officer of the deck?

Answer. Yes, sir, by the captain's.

Question. But could he have altered it without an order from an officer?

Answer. They are not allowed to do it, sir.

Question. Then, was the Columbus's course altered by your order up to the time of the collision?

Answer. It was not altered by my order after I came on deck, at twelve o'clock. When we give the order to stop the engine, we give no order to the man at the helm, unless we know what position the other vessel is in. Our helm at the time did not require any shifting that I know of.

Question. Do you know whether any one on board of the Columbus hailed the schooner?

Answer. I am not certain, sir, whether any one hailed her or not.

Question. When you first saw the schooner, you have stated when you saw her with reference to your own ship; but I wish to know, as far as you can form an opinion, without asking you to be exact, in what general direction she seemed to be steering when you saw her; was it northwest?

Answer. She appeared to be steering to the westward of north—how much I can't say.

Question. How long before the accident happened had the wind shifted—speaking in civil time?

Answer. I do not know, sir; the log-book will tell.

Question. Do you know how Burgess saved himself, after you had spoke to him two or three times?

Answer. I do, sir.

Question. Just state how it was.

Answer. As the bow of the Columbus fell with the sea, he caught our bowsprit shroud from the schooner's deck, and I ordered my men to assist him in.

Question. What is the difference between the bowsprit shroud and the bobstay?

Answer. The bobstay goes from the entire end of the bowsprit down to the vessel's stem, but the bowsprit shroud goes from the end of the bowsprit towards the cat-head, one on each bow.

Question. And you say it was the bobstay that cut like a saw (long chain.) We frequently see wharf logs cut by the bobstay. You have stated that in your opinion the schooner was not managed in a proper or seamanlike manner; why do you express that opinion?

Answer. I don't know that I have said that on that occasion she was not managed in a seamanlike manner. I have said, they were neglecting their duty on board of her; and I think a gross piece of carelessness is in the captain of the schooner being below and the vessel running in for the land, without being on the lookout on board of his vessel.

Question. Then do you mean to say that there was any other carelessness on board of this schooner other than that which you have described, in the absence of the captain from deck?

Answer. And in there being no lookout on board the schooner.

Question. Did you see any other?

Answer. I don't know that I did. I think that was enough, as it was endangering the lives on board other vessels as well as his own.

Question. From what source do you derive the knowledge of the absence of the watch on board the schooner—other than Burgess?

Answer. The only source I would have, he being the only survivor of the vessel, would be from him. He told me, voluntarily, himself, that the captain was asleep below, and that the man on the watch must have been asleep, or they would have seen us.

Question. How often have you been at Edenton?

Answer. I have been to Edenton three or four times. I first was there in the latter end of 1841 or '42. I sailed out of the port of Murphrey's Borough; Edenton is the port of entry. I think altogether I have spent about two or three weeks there at different times, long enough to clear my vessel each time.

Question. You have made statements of what your position would have been at the time of the collision, derived from calculations upon data which you have taken from the statements of Burgess; was that data any other than the latitude and longitude, as he gave it, of the schooner at half-past eight on Saturday night?

Answer. No other but his, (Burgess's,) and allowing for the six hours' difference in time, as he said the vessel was sailing at five knots an hour.

Re-examined by Mr. Waln.

Question. From what data did you take the position of the Columbus?

Answer. From Cape Hatteras shoals, and my own calculation.

SAMUEL M. WELSH.

Taken, sworn, and subscribed this 21st day of February, 1849, before me; the subscribing of each page by the witness having by consent been dispensed with.

J. BURCHARD,
U. S. Commissioner.

In the district court of the United States, in and for the eastern district of Pennsylvania.

JOHN SANDERSON
vs.
THE STEAMBOAT COLUMBUS. } Collision.

Depositions taken before C. F. Heazlitt, commissioner.

Mr. J. MURRAY RUSH, *for libellant.*
Mr. ED. WALN, *for respondent.*

Alexander Kirkwood, a witness produced on the part of the respondent, deposes and says:

Question. Were you on board the Steamer Columbus on the night of December 3d, 1848?

Answer. Yes, sir.

Question. In what capacity?

Answer. As carpenter and sailor.

Question. Were you on deck at the time of the accident?

Answer. I was on deck.

Question. On what part of the deck?

Answer. For'ard part, looking out. It was my lookout.

Question. Who was it first saw the Schooner Mission?

Answer. Me, sir.

Question. Tell us, if you please, how a man on the lookout conducts himself; does he stand still or does he keep moving?

Answer. He keeps moving about, never leaving his post.

Question. State where you saw the schooner first?

Answer. About a point on the lee bow.

Question. How far ahead?

Answer. I can't say, sir, how far off it might be, not far off.

Question. How far do you suppose?

Answer. I can't say, sir; I did'nt take time to look where she was; I went to report the vessel as soon as I seen it. I sung out a vessel right ahead.

Question. Is that what you mean by "went to report her?"

Answer. Yes, I run aft about two or three steps.

Question. Who responded to your cry, or what was done?

Answer. Mr. Welsh, sir, the officer of the deck.

Question. What did he say or do?

Answer. He ordered the engineer to stop the engine and back.

Question. Was or was not that order obeyed?

Answer. Yes, sir, that order was obeyed.

Question. When?

Answer. Directly, sir.

Question. Now tell us, Kirkwood, when you saw the schooner, how did she appear?

Answer. I only seen her mast when I reported her.

Question. Why did you only see her mast?

Answer. Her sails were trimmed fore and aft, sir.

Question. What effect would that have to prevent or enable you seeing her at a greater distance?

Answer. A vessel coming on head on to us, we only could see the edge of her sails.

Question. As you cannot tell us the distance the Mission was when you cried out, can you tell us about the time that elapsed before the vessels struck?

Answer. I cannot say; it may have been about two minutes; two or three minutes.

Question. What was done after the order was given by Mr. Welsh to back; what next was done?

Answer. Well, after he gave the order to back, the engine was backed.

Question. At the time of the accident how was the Columbus in the water; laying dead, going ahead, or backing in the water?

Answer. I don't think the vessel had any head-way on her.

Question. Did you feel, or did you not, any shock or concuesion?

Answer. No, sir; there was a heavy sea on; you couldn't feel it.

Question. Do you know whether there was any?

Answer. No, sir, I don't think there was.

Question. Did you see the Mission under the bows of the Columbus?

Answer. Yes, sir.

Question. What was her position?

Answer. She was laying about thwart-ships across our bow.

Question. What kind of a night was it?

Answer. Starlight night, sir.

Question. How far, on such a night as that, could you see the Columbus?

Answer. I can't say; you could see the light a good distance; say a mile off, or the like of that.

Question. What was done the next thing by Mr. Welsh; where did he go?

Answer. He went for'ard, sir, and asked the schooner where she was from, what she was loaded with, and how long she had been out.

Question. What order did he give?

Answer. He sung out to clear away the boats, right off.

Question. Did you hear him give any order to the engineer, and what?

Answer. The first order he gave was to stop the engine, and then he called not to back her any more.

Question. Why?

Answer. To give the men a chance to come aboard.

Question. Who manned those boats?

Answer. Mr. Welsh and I manned the first boat.

Question. Your being in that boat, you had an opportunity to see what kind of a sea it was. What kind of a sea was it?

Answer. A very heavy sea, sir.

Question. Was there danger?

Answer. Yes, sir; I wouldn't gone out for any thing else than a man's life that day.

Question. State, if you please, whether there was any of the crew who were backward or declined, or whether they said any thing?

Answer. Yes, sir, one man said he wouldn't go in a boat to save no person's life.

Question. How far, as the wind was that night, could a hail have been heard from the Columbus?

Answer. I can't say, sir; I don't think more than about ten yards.

Question. How long have you been a sailor?

Answer. I went to sea before I served my time to be a carpenter, a ship carpenter, and my time has been out six years, and I have been going to sea mostly ever since.

Question. Have you crossed the Atlantic?

Answer. Yes, sir.

Question. How often?

Answer. I have been four times to the East Indies. I don't know how often I have crossed the Atlantic.

Question. What, in your judgment, was the most prudent thing to be done on board of the Columbus under those circumstances?

Answer. To back her, sir, in my opinion.

Question. What is, in your judgment, the most prudent course for a steamboat to adopt, when a sail is coming right at her a short distance ahead?

Answer. A vessel so near to the Columbus as the Mission was that night, the most prudent thing would be to back the steamboat.

Question. Suppose that the Mission had seen the Columbus when the Columbus saw her, would it have been easy or difficult for her to have cleared you?

Answer. If he had put his helm up, he would never touched us, or us him.

Question. Had you any conversation with Burgess after he came on board the Columbus, about who was on deck of the schooner, and what they were doing? [Objected to by Mr. Rush, Burgess's attention not having been called to a conversation with this witness.]

Answer. I had. He told me there was another man on deck besides him; that he hadn't seen him for some time; he guessed he was asleep.

Question. Did he say any thing about where the officers were?

Answer. No, sir.

Question. Where was it that he told you so?

Answer. On board the Columbus.

Question. Did he say any thing about if he seen the Columbus—whether the schooner could or could not have cleared her?

Answer. He said he didn't know what the Columbus was when he saw her above the schooner.

Question. Where did that accident happen—on or off sounding?

Answer. On sounding.

Question. From the time you saw the Mission until the accident, did the Mission alter or not her course?

Answer. I don't think she did.

Question. What kind of conduct would you call it, in a vessel on soundings running into land, not having had an observation of the sun for two or three days, with all the officers below, and in about the latitude and longitude in which the Mission and Columbus were?

Answer. I should call it gross carelessness, or something worse.

Question. Did you ever sail in a vessel where all the officers went below and left two seamen on deck?

Answer. I have sailed in Scotch, English, and American vessels, and have never known all the officers to go below.

Question. What was the action of the two vessels when the Mission was athwart the bows of the Columbus?

Answer. The heavy sea on the Columbus was riding her down right over the top of her.

Question. You are a ship-carpenter; will you give us your opinion whether the accident was caused by the concussion or by the riding of the two vessels?

Answer. I think it was the sea that made the Columbus ride the schooner down. I don't think there was any headway on.

Question. Did you see the cut-water of the Columbus at Charleston?

Answer. No, sir; the cut-water was carried away.

Question. Did you see the bolts that were left in?

Answer. Yes, sir.

Question. Which way were they bent?

Answer. They were bent over to starboard.

Cross examined by J. Murray Rush, esq.

Question. How old a man are you?

Answer. About 25 years of age.

Question. Of what country are you a native?

Answer. Scotland, sir.

Question. Are you a married man?

Answer. No, sir.

Question. How long have followed the sea?

Answer. I have been going to sea for six years constantly.

Question. You say that you have been to sea for six years; do you date from the period when your time was out?

Answer. Yes, sir.

Question. When you say your time, do you mean your time as an apprentice to the ship-carpentering business?

Answer. Yes, sir.

Question. How long were you serving that time?

Answer. Six years.

Question. During your apprenticeship were you at sea?

Answer. No, sir.

Question. Were you at sea at no time during your apprenticeship?

Answer. No, sir.

Question. Do you remember how old you were when you commenced your apprenticeship?

Answer. It will be easy to calculate it; about 13 years of age.

Question. How long had you been to sea before that?

Answer. I was coasting a little—going about for pleasure.

Question. Could you tell me, Mr. Kirkwood, how long before you commenced your coasting before your apprenticeship as you have described?

Answer. About two years.

Question. Was that all you had with the water before you commenced your apprenticeship—those two years?

Answer. Yes, sir.

Question. What kind of vessels did you coast in?

Answer. Sloops, sir.

Question. In what capacity did you serve on board the sloops?

Answer. In no capacity; I went for pleasure; I didn't receive any pay.

Question. Did you do any service on board, or did you do as you please?

Answer. I did service as I was told to.

Question. What did you do before that?

Answer. Farming. I was at home with the old man then.

Question. During the six years that you say you followed the sea since your apprenticeship, what kind of vessels have you sailed in? Begin, if you recollect, and tell me down to the present time.

Answer. Barques and ships.

Question. Did you commence, after your apprenticeship, in a barque?

Answer. Yes, sir, a barque was my first ship. I continued in her eleven months and two weeks. The next was a barque. I guess I was about fourteen months in her. The next was a ship—sail ship; stayed in her about three months. The next a ship; I stayed in her about eleven months. The next was a ship; about ten months and a half, or thereabouts. The next was a ship, too; in her six months, I guess. The next Ship Hindoo; in her two months; and the next the Columbus; I went in her in December, 1847.

Question. Did you ever sail in any steam-vessel as carpenter and sailor before the Columbus?

Answer. No, sir.

Question. What were your duties during these years on board the various vessels you have spoken of?

Answer. I shipped as carpenter on some, and some others as carpenter and seaman.

Question. How did you ship on board the Columbus?

Answer. I shipped as carpenter and seaman.

Question. Have you been with the Columbus ever since her first trip?

Answer. I have been with her every trip except one.

Question. You have stated that it was starlight when you were on the for'ard watch, preceding the collision. It was clear, was it not?

Answer. No, it wasn't very clear; it was a starlight night.

Question. About how far could you see from the deck of the Columbus?

Answer. You might see a vessel, broadside on, a mile or two miles from you; a vessel coming head on, you couldn't see her no distance.

Question. When you say no distance, and head on, what do you mean?

Answer. I mean a fore and aft vessel, with her sails trimmed fore and aft edge on, we could'nt see her no distance.

Question. What is the reason that you can see the vessel as you

first described her at one or two miles, and afterwards at no distance? [Objected to by Mr. Waln, because witness hasn't said so.]

Answer. I mean a vessel two miles off with her sails trimmed, and looking flat-way at them, and a vessel trimmed fore and aft with the edge looking edge on to them.

Question. What is the reason, that in the one case you can see further than in the other?

Answer. In one case you look at the edge of the sail, and in the other you look at the flat.

Question. Then I understand you to say, that in one case you haven't so large an object to see as in the other.

Answer. Yes, exactly.

Question. When you say that you couldn't see a vessel with the sail edgeways no distance, I want you to be more particular, as you certainly mean some distance.

Answer. I mean some distance, but not as far as you can see them the other way.

Question. Then how far do you mean?

Answer. I can give you no given distance.

Question. Why can you give me a given distance in the one case and not in the other?

Answer. In one case you are looking at a great object, and in the other case you are looking at nothing in a manner.

Question. Could she not have been seen a quarter of a mile off; I mean the schooner, on that occasion?

Answer. I could not see her a quarter of a mile off. When I did see her, I only saw her masts. The masts were the first object I see.

Question. I did not ask you how far you saw her, but how far she could be seen, and I wish you to answer it, if you can, to the best of your ability.

Answer. I must know from where I am to stand to look to. Do you mean from the Columbus's deck?

Question. I mean standing on the deck of the Columbus, and looking aft, forward, larboard or starboard, to about what distance could a man with good eyesight throw his vision. Answer to the best of your ability.

Answer. I don't know how far a man could see.

Question. Could he not have seen, under the circumstances I have described, an object at the distance of half a mile, distinctly, or more distinctly according to its size?

Answer. You could see a small object to the distance of half a mile, and as a large object might be seen at the distance of two miles.

Question. Could not a man have seen a good-sized schooner at the distance of half a mile?

Answer. It would depend from what position I looked at her.

Question. Then state, in your position, you could have seen a good-sized schooner a half a mile on that occasion.

Answer. If she were going large before the wind, we could have

seen her at the distance of one mile, before the wind, and the sails boomed out.

Question. In what position besides that, could you have seen her at the distance of half a mile?

Answer. If you had been looking at the broad side of her, close-hauled, you could see her at the distance of half a mile.

Question. You were on your starboard tack, were you not?

Answer. We had our starboard tacks aboard.

Question. The schooner had her larboard tacks aboard, had she not?

Answer. I think so, sir.

Question. She was close-hauled, was she not?

Answer. Yes, sir.

Question. In what direction was she steering when you saw her?

Answer. I don't know, sir, she had her head on to us. I don't know in what direction she was steering.

Question. In what direction were you steering?

Answer. I don't know, sir, I wasn't at the wheel.

Question. If the schooner had been steering north and north by east on the larboard tack, and you were steering southwest with the starboard tack, would you not necessarily have had a view of the broad side and the sails of the schooner, as she approached you?

Answer. No, sir.

Question. Then what part of her would you have seen, if you hadn't that view of her?

Answer. We would have seen the sails at an angle.

Question. And how would you have seen the body of the vessel?

Answer. We would have seen her at an angle, too.

Question. Mr. Kirkwood, I wish to know from you, to the best of your ability, how far a man on the lookout, on the deck of the Columbus, at that time, could have seen from any part of the deck a good-sized schooner approaching the Columbus, in the manner in which you say the Mission approached her. I do not wish to dwell any longer on this subject, I wish you to answer it specifically.

Answer. I was the foremost person, and I only seen them two or three hundred yards off, and I know I can see as far as the next man.

Question. Then, when you first saw her, I understand you to say that she was from two to three hundred yards off?

Answer. Yes, sir; to the best of my knowledge.

Question. What watch were you in?

Answer. Larboard watch; I came on deck at 12 o'clock.

Question. What duty had you to do when you came on deck?

Answer. I had to relieve the man on the lookout. I stayed there till the accident. I had a four hours' watch; there was another man besides me walking the decks on the forward watch. The other man could go where he had a mind to, but I was on the lookout; I had to stand there till the next watch.

Question. As soon as you saw the sail, you cried out, "Suil ahead?"

Answer. Yes, sir.

Question. Did the officer of the deck ask you any questions, about her position in reply?

Answer. He said, "Where away."

Question. What did you answer?

Answer. I made no answer to that; he seen her before I had time to answer.

Question. Then you mean by that, that he ran forward?

Answer. He was standing on the engine-house and jumped on deck, run forward two or three steps, and called the engineer to stop the engine and back her.

Question. Then I understood you to say that he jumped from the wheel-house, run forward two or three steps, before he called on the engineer?

Answer. Yes, that's about it.

Question. Then he called upon the engineer to stop and back the engine, after he had himself seen the position of the sail?

Answer. Yes, sir.

Question. How often did he call out to the engineer?

Answer. Once, to stop her.

Question. And how often did he call to back her?

Answer. Once, too, sir.

Question. Do you know how many knots the Columbus was going at that time?

Answer. No, sir, I do not, it was my lookout. I had no chance to see the log line.

Question. After the order to stop the engine, how long did it take before her headway was stopped and the vessel brought to?

Answer. I can't say the length of time, it might be a minute, or two minutes.

Question. The vessel after the order was given became motionless, did she not, and dead in the water?

Answer. As soon as she lost her headway, she commenced to go astern, for they were backing the engine.

Question. How far did she go astern, do you think, or about how long was she going astern?

Answer. I don't know how far she went astern, but the length of time might have been three or four minutes from the time the order was given to back her, until Mr. Welsh said not to back her any more.

Question. Don't you think that more than a couple of minutes elapsed, from the time the order was given to stop the engine to the stopping of her forward motion?

Answer. No, sir; I do not.

Question. And how long a time do you think took place, from the moment you cried out, "Sail ahead," until Mr. Welsh sung out to stop the engine?

Answer. It took no longer time than a man could speak it.

Question. I do not think that you understand my question; as your

answers have hitherto been intelligible, I will repeat; I ask you about how long a time elapsed from the moment when you sung out, "Sail ahead," until Mr. Welsh had jumped down from the engine-house and had sung out to stop the engine, after looking for the sail himself?

Answer. I cannot say the time, it couldn't take a minute.

Question. Now, sir, yov have stated that if at that time the schooner had put her helm up, that it wouldn't have touched you. Suppose, when you first saw the schooner, two or three hundred yards off on the larboard bow, the helm of the Columbus had been put hard aport, as hard as it could be put aport, and the engine, in place of being ordered to give a backward motion, had gone on forward with her full head of steam, I ask you as a sailor, whether in your opinion you don't think it likely that there would have been no collision?

Answer. We couldn't have put the Columbus's helm aport, in time to have gone out of the schooner's way.

Question. Why not?

Answer. Because there wasn't time enough.

Question. Would not the effect of putting the helm of the Columbus aport, as she was at that time standing a southwest course, have been to have drawn her more rapidly through the water than before her helm was put aport?

Answer. If you had put the helm of the Columbus aport, she would have luffed right up into the wind, and it would have stopped her headway a little.

Question. When you put a helm hard aport, what is the immediate effect produced on the motion of the vessel?

Answer. The ship's head flies to starboard.

Question. How much when the helm is put as hard aport as it can be?

Answer. The head will go round as long as you keep her helm aport.

Question. If you put your helm hard aport, and keep your forward motion and your steam up, do you mean to say that the vessel will go round and round without making any forward motion?

Answer. Certainly she will.

Question. Do not vessels frequently sail for a considerable time with their helm hard aport, and make headway?

Answer. Yes, a vessel may sail with her head hard aport, if her sails are trimmed to balance it.

Question. Then, sir, I understand you to say that a vessel may have her helm hard aport and her headway on her, without turning round and round? [Objected to by Mr. Waln.]

Answer. Yes, certainly, sir.

Question. If you had put the helm of the Columbus hard aport, would not, whilst her helm was hard aport, her steam have had the same effect upon her forward motion, as if she had had her canvass to balance her, and would not the Columbus have dashed right off to starboard?

Answer. Yes, sir. She would have gone to starboard as soon as the helm was put aport.

Question. And would she not have gone on almost at the same rate that she was going before?

Answer. Yes, sir; she would have gone on almost at the same rate, only in a different direction.

Question. Now, sir, do you not think, of course you cannot be certain, that when you did your duty in singing out "A sail ahead," and the officer on the deck had seen she was on the larboard bow, two or three hundred yards off, that if the helm had been put hard aport, without a minute's delay, and been kept there, the engine going all the time, that the Columbus would have dashed off to starboard far enough to have passed the schooner?

Answer. No, sir; there wasn't time to put the Columbus's helm aport to clear the schooner.

Question. Then do you mean to say, that when you see a vessel coming upon you as you say the schooner came upon you, the schooner sailing five knots an hour at a distance of two or three hundred yards, having knowledge of her approach, that it was impossible on board of another vessel or ship going seven or eight knots an hour to avoid a collision by shifting the helm?

Answer. It depends on the size of the vessel; a larger vessel takes longer time to answer the helm than what a shorter one does. I will give you the instance of two such vessels as the schooner.

Question. Do you mean to say, sir, as a sailor, that where one is approaching the other, and the distance at which they are first seen is from two to three hundred yards, that if the schooner is coming right on the ship, as you describe it, that it is impossible under those circumstances to avoid a collision by shifting the helm of the larger vessel in a proper direction?

Answer. No, sir; I do not.

Question. Are you acquainted with the habits and customs on board of small craft like schooners and sloops; I mean particularly with reference to the number and strength of crew which they generally carry?

Answer. No, sir; I do not.

Question. Suppose a man to have a small sloop or a schooner, with a couple of able seamen, and himself as master, and the vessel was on soundings, would you think it gross carelessness if the captain was not on deck all the time, morning and night? [Objected to by Mr. Waln.]

Answer. If there was only a master and two men, one of them would be a mate, and one of them should be on deck always.

Question. Then do I understand you to mean, when an officer has a good crew that he has confidence in, and during his watch has been on deck, and given his orders and looked to everything, that it is gross carelessness in him, if while his men are at duty and behaving well, that he should go below for an instant? [Objected to by Mr. Waln.]

Answer. He might go below, but I never was in a ship where all the officers were off deck to go to sleep.

Question. Then you do not mean to say that it would be gross carelessness, when a watch were doing their duty, for an officer to go below for a short time for any purpose, without going to sleep or forgetting the ship?

Answer. The officer of the deck may go below for a drink of water, for a minute or so, or for any such purpose, and leave any body in charge of the deck he may choose to appoint.

Question. How long before the schooner sunk after the collision?

Answer. Two or three minutes after the collision.

Question. You were not conscious of the collision then at all?

Answer. I would not have known it if I hadn't seen the schooner.

Question. Did you see the schooner afterwards at any time on your return from Charleston?

Answer. Yes, sir.

Question. Where was she cut, and in what way?

Answer. I didn't see any place about her; she was on her beam ends.

Question. Was the side she had been cut towards the water?

Answer. No, the starboard side was up. The forward part of the vessel was under the water, and the stern was up; she was on her beam ends.

Question. Do you know whether the course of the Columbus was altered, after the cry of "Sail ahead?"

Answer. In no other way than by going astern, by reversing the engine.

ALEXANDER KIRKWOOD.

Taken, sworn, and subscribed, February 28th, 1849.

CHARLES F. HEAZLITT,
Commissioner.

In the district court of the United States in and for the eastern district of Pennsylvania.

JOHN SANDERSON vs. THE COLUMBUS. } Collision.

March 1, 1849: Present, Mr. Wain.

David Webster, a witness produced and sworn on the part of the respondent, deposes and says:

Question. Were you on board the Columbus in December, 1848, at the time of this accident?

Answer. Yes, sir, I was.

Question. In what capacity?

Answer. I was employed there as chief cook of the ship.

Question. State what you saw of the accident.

Answer. Well, at the alarm I heard the chief mate call out to

"back ship;" I was then lying on a table in my kitchen, asleep, I suppose. My kitchen is right abreast of the fore-mast, on the larboard side. After I heard this alarm, I lay there a minute or a minute and a half, to see what would come next; the next thing I heard was "lower away the boats!" then I run on deck in an instant. After I got on deck, I saw three or four steerage passengers; I inquired of them what the matter was.

Question. Did you see the schooner?

Answer. No, sir, I didn't—anything at all of her when I came on deck.

Question. Did you make any exertions to save any of the crew of the schooner?

Answer. Yes, sir, as far as I seen.

Question. What?

Answer. I saw a man come up right abreast of the fore-mast, struggling, and I picked up some rope and threw it to him, and told him to catch hold of it, and followed him along about half the length of the ship; he came up three times. I didn't see the schooner at all; she had sunk when I came on deck, and I should say, she sunk just about the time I did get on deck.

Question. Had you any conversation with Burgess?

Answer. Yes, sir, the next evening.

Question. What was it?

Answer. In the evening, about six o'clock, I went on deck, and saw him there; asked him to come down in the kitchen; he done so. I then asked him if he didn't see anything of the ship; he told me he did not. I then asked him how he made his escape; to save himself, he told me that as soon as the ship struck he let go the wheel and run, caught right hold of the Columbus's bowsprit shrouds, and then he was helped on deck board of her. I asked him then if there was nobody keeping a lookout on board the schooner; he told me there was nobody on deck but himself and another man; the other man he said must have been asleep or else below, one or the other, which, he couldn't say. I then asked him if there was no officers on deck; he told me that the schooner only carried one, and he was in the captain's watch himself (Burgess.) I asked him then if the captain made it a practice to sleep in his watch, below; he told me no, that he did not, but the captain had been up all night before, he was tired, and had laid down to rest, and trusted his schooner with him and the other man that was on deck with him. This conversation was on the evening of the same day of the accident.

Question. Did he say that if he had seen the steamer he could have cleared her?

Answer. Yes, sir, he told me that if he had knew it in time he could have cleared her.

Question. Did he say anything about who was in fault?

Answer. No further than this, sir; the man who was in the watch with him could have seen the ship if he hadn't been below or asleep.

Question. Do you know anything more?

Answer. No, sir, that's all I know about it.

Question. Were you present when Burgess signed the statement in the office?

Answer. No, sir, I was not.

Question. You have stated that your kitchen was abreast of the fore-mast, and you were in it; did you, or not, feel any shock or concussion, and what awoke you?

Answer. The alarm of the chief mate to "back the ship" woke me. I did not feel any shock or concussion at that time; I didn't hear or feel them coming together; I felt only the motion of the ship at sea.

his
DAVID ⋈ WEBSTER.
mark.

March 2d, 1849.

Cross examined by J. Murray Rush, esq.

Question. Did you hear Mr. Welsh or the captain at any time say in what direction the schooner was when she was first seen?

Answer. No, sir, I did not.

Question. Who was at the wheel at the time of the accident?

Answer. I don't know, sir.

Question. What is your age?

Answer. I am between twenty-eight and thirty years of age, sir.

[Further cross examination declined by Mr. Rush, after reading the examination in chief.]

his
DAVID ⋈ WEBSTER.
mark.

Subscribed, March 2d, 1849.

CHAS. F. HEAZLITT,
Commissioner.

In the district court of the United States in and for the eastern district of Pennsylvania.

JOHN SANDERSON
vs.
THE STEAMER COLUMBUS. } Collision.

Depositions taken by consent, before Charles F. Heazlitt.

The general rule of question and answer is waived by consent.

Jeremiah Bennett, being duly sworn on the part of the respondent, saith:

I have been a sailor, or part of a sailor, for near 30 years, and have been a pilot in the river and bay of the Delaware since 1834. Commanded the city ice-boat five winters, and the tow-boat Delaware two winters. I was fourteen years pilot of the steamboats of the Baltimore and Union Line running to Cape May.

Question. What is the prudent course for a steamboat to adopt when a sail is descried ahead?

Answer. To stop the engine immediately. I adopted that plan when I had charge of the Columbus. We met so many vessels going up and down the Delaware in the night; when you see a vessel ahead, you may hard a-starboard for to clear her, that vessel will hard a-port, which will spring you together, a collision otherwise; if you hard a-port she will hard a-starboard opposite, that would bring us together, each way, either hard a-port or hard a-starboard.

I will say I found the safest plan not to alter the course, but to stop the ship; that would give a vessel a chance to hail the vessel that was coming on to you, so that he could either starboard or port, and clear you.

Question. What is the law of the sea as to a vessel having her starboard tacks aboard giving away to one on the larboard tack, or how is it?

Answer. I don't know that there is any law at sea, sir.

Question. You say at sea; is there such a usage any where?

Answer. I think there is one in the river; a vessel on the larboard tack gives way for one on the starboard tack.

I was on board the steamer Columbus on the night of Sunday, 3d December, 1848. I was below at the time of the collision; I heard the engine stop; it woke me up; I immediately heard the engine reversed, to go back; that drew me on deck; they were clearing away the boats to lower them down. I asked what was the matter; they said "a man overboard;" I immediately jumped and assisted to lower the starboard quarter-boat; after she was in the water I returned to my state-room again and put on my clothes; came on deck again immediately, when I was informed by the second engineer that we had run over a schooner and sunk her; run was the expression of the engineer. There was a heavy sea on that night. The boats were in danger in getting them up; they didn't like to come alongside the ship. The boats would not come alongside both together, for they were afraid if one swamped there would be nobody to pick the others up.

Question. Captain, when you first came on deck, how was the Columbus in the water?

Answer. She appeared to be laying still in the water, as far as I could judge—not going ahead.

I was awakened by the stopping of the engine, that was all. I heard no collision at all; I felt no collision.

Question. Captain Bennett, were you present when Burgess made statement to Captain Peck?

Answer. I can't say I was present; I saw the communication or instrument that was drawn up, that was all; I did not see him sign it; I did not see the Schooner Mission at all that night.

I can't rightly tell how long it was from the time I heard the engine stop till I was on deck, about three or four minutes, I can't exactly say. The reversing of the engine drew my attention.

Question. A schooner two points on the larboard bow of the Columbus, close-hauled and sailing on the wind; if the schooner had seen the Columbus three or four times her length, would it have been easy or difficult for the schooner to have avoided the Columbus?

Answer. Very easy to have cleared her if they had had a lookout, and saw her. I won't say that they could have gone on the larboard side, but on the starboard side they could have gone with all ease.

The schooners are generally very good steering vessels.

Question. In your opinion, sir, was there any negligence or unskilfulness in the officers or crew of the Columbus on the occasion of that collision?

Answer. I don't think there was any, sir.

Question. Did you ever hear Burgess say what was the cause of the accident?

Answer. I heard him say that the man that had the lookout must have been asleep. He said this on board of the Columbus. The Columbus is a large ship, and long one.

Question. What is the character of those coasting schooners for negligence or watchfulness in keeping a lookout? (Mr. Rush objects.)

Answer. Well, sir, the majority of them keep a very bad lookout. We are never afraid of running into a brig or ship at sea, they have a lookout, or light, or something.

Cross examined by J. Murray Rush, esq., for libellants.

Question. How long have you sailed on board of the Columbus?

Answer. From the 19th February, 1848, to the 12th day of December, 1848, when I left her; I think that was the time.

Question. Are you still connected with her?

Answer. No, sir.

Question. How long had you been below on the evening or night of the accident before you were awoke?

Answer. May be three hours; I don't recollect what time I retired.

Question. How was the night at the time you went below—clear or otherwise?

Answer. Some clouds and stars out; prospect of being a clear night.

Question. About how far could you see around and ahead from the vessel at the time you went below? State to the best of your knowledge and belief.

Answer. I think we could see a vessel about a half a mile, as nigh as I can recollect.

Question. When you came on deck, and had sufficiently collected your thoughts to enable you to observe and recollect, what kind of a morning was it, and how far could one have seen ahead and around the vessel?

Answer. It was a starlight morning. I should judge you could have seen a vessel under canvass at least a quarter of a mile.

Question. Why could you not see a vessel as far at that time as when you went below?

Answer. It was more hazy, I think—the horizon.

Question. I have understood you to say that you were awoke by the stoppage of the engine; am I correct?

Answer. Yes, sir.

Question. And after that did you hear the engine put back?

Answer. I did.

Question. Could you state about how long a time elapsed between the stopping of the engine, which awoke you, and the putting of it back? I don't ask you to state exactly, but by the best opinion you can form.

Answer. I can't say the time; the engine appeared to be reversed almost immediately after the stopping.

Question. And when you got on deck, I have understood you to say that the vessel was motionless, or still. Is that so?

Answer. To the best of my knowledge.

Question. Are you quite sure that you were not awoke by the backing of the engine rather than by the stopping?

Answer. I was awoke by the stopping of the engine.

Question. Are you quite sure, after you awoke, and after you went on deck, or before you went on deck, that there was no collision?

Answer. I didn't know of any. I was sure that something was wrong by the reversion of the engine, and turning the ship back.

Question. You are an experienced and well known seaman; I ask you, captain, whether it was possible for a collision to have taken place after you awoke and went on deck, or before you went on deck, without your either hearing or feeling it.

Answer. It might have took place before I went on deck; it could not after I went on deck without my knowing it.

Question. After you awoke, as you have described, could it have taken place before you went on deck without your feeling or hearing it in some way? would it be possible, provided you were fully awake and had your consciousness about you?

Answer. It could have been done before I went on deck. The engine makes a tremendous rumbling noise.

Question. After you heard the engine stopped and reversed, was there any backward motion to the steamer? and what do you mean by saying that she was still in the water. [Objected to by Mr. Waln, as not predicated upon the facts as testified to by Captain Bennett.]

Answer. I could tell in my berth whether she was going ahead or astern. After I got on deck she appeared to be still in the water.

Question. You have stated that from the time you awoke to your going on deck it was some two or three minutes. If she had had a backward motion after the engine was reversed, could she have been still in the water when you got on deck? [Objected to by Mr. Waln; same objections as before.]

Answer. I can't say.

Question. Don't you think it very likely?

Answer. I can't say whether she would have been going ahead or astern; I have no idea.

Question. You know that when a vessel is put in motion, she stays in motion unless stopped by some power. If the Columbus had received a backward motion before you went on deck, do you think that she would have been still in the water when you went on deck? [Objected to by Mr. Waln.]

Answer. That would depend upon how much backward motion she had.

Question. Then she must have had very little indeed, must she not, if she was still when you got on deck? Please to answer me that as a practical sailor. [Objected to by Mr. Waln.]

Captain Bennett. What is the question?

Question repeated.

Answer. I think she had very little.

Question. If the collision took place after you awoke, and before you went on deck, as you say that you heard the stopping of the engine and the reversing of the engine, which you have informed us made a good deal of noise, must not the collision have taken place during one or the other of these movements?

Question. I cannot say, for I never saw it or heard it.

Question. Is the object and reason of stopping a ship, when the cry of "sail ahead" is given, to enable the vessel which is stopped to hail the other?

Answer. It is with me.

Question. When after a vessel is stopped, do you not think it would be a neglect of duty not to hail the vessel it was desired to avoid?

Answer. I should hail if I had charge.

Question. Then please to say, Captain, whether, in your opinion as an officer, it would not be a neglect of duty not to hail, according to your judgment?

Answer. Not being on deck I cannot answer the question.

Question. I do not address your attention to this particular vessel on this particular occasion, but I ask you, as a seaman acquainted with your business, would not an officer on the deck of a ship that had been stopped to hail another be neglecting his duty in not hailing or ordering a hail to be given? That question you can answer as well on land as on water. [Objected to by Mr. Waln.]

Answer. When I had charge of the Columbus I stopped her and hailed her, to save a collision. [Mr. W. objected to as not responsive to the question.]

Question. Captain, I don't think your last answer, although very intelligible in itself, is entirely in answer to my question; and without referring to the Columbus or any other ship, but as a question of care and attention with an officer of the deck of any ship which is stopped for the purpose of hailing another to avoid a collision, would it not be a neglect of duty when the vessel was stopped that a hail should not

be given? I repeat this because I wish it answered specifically to the best of your ability.

Answer. Yes, sir, it would require the officer of the ship to hail.

Question. Is the rule which you have spoken of, about stopping a vessel to hail, in order to avoid a collision, one applicable in your opinion to all vessels, whether steamers or sail vessels?

Answer. Only to steamers. You can't stop a vessel under canvass when we want to hail one.

Question. Then you intended only in the beginning of your examination to refer only to steamers, did you?

Answer. Yes, sir.

Question. If on board of a steamer you saw a vessel approaching you one or two points on the larboard bow, if your helm was put hard a-port, and the other vessel had gone straight on her course, you being on the starboard tack and she on the larboard, if the helm was shifted in proper time would not a collision necessarily have been avoided without stopping the engine?

Answer. That would depend on how close together they were when the steamer first saw her.

Question. When a steamer is under weigh, going eight or nine knots an hour, if nothing is done to her but moving the helm to starboard or port, does she not go at the same rate, though in an altered direction or nearly so?

Answer. Yes.

Question. Would not the variation from her former speed depend upon the different relation in which by her altered course she was brought to the wind?

Answer. I don't understand that.

Question. Upon what would the degree of her speed, after the helm was altered, without any alteration in the engine, depend?

Answer. If you put her hard N. W. or E. she would have gone faster.

Question. What would have been the right way to have moved the helm of the Columbus, if it had been thought advisable to move it, under the distance and other circumstances immediately prior to the collision, and when "sail ahead!" was cried out on board of the Columbus in the endeavor to avoid a collision?

Answer. Kept it as it was, and stop the ship.

Question. That is no answer to my question, directly or indirectly, and I come back to it again. If the officer of the deck had thought proper, after considering the distance of the schooner, to order the helm shifted, what would have been the proper way in which to move it, as the Columbus was on the starboard tack, and the schooner on the larboard, two points on the larboard bow?

Answer. Not seeing the schooner, or her position, can't say.

Question. Do you mean to say, when a steamer is approaching another vessel, there is no way of avoiding her by the use of the helm before the engine is stopped and reversed? Do I understand you to

say that there is an invariable rule, applicable to all cases, that the engine must be stopped?

Answer. I say there is, by hard a-starboard or hard a-port. One part of the question I answer thus; but I say any man that knows what to do with a steamer, the most prudent way, in my opinion, is to stop the engine.

Question. Then you do think it is not prudent at any time to go hard a-port or hard a-starboard under any circumstances?

Answer. What is the question?

[Question repeated.]

Answer. That depends on circumstances.

Question. Then I understand you to say that there may be circumstances when it may be prudent for you to go hard a-starboard or hard a-port?

Answer. That depends on the situation and position that you see the vessel in.

Question. You have not answered my last question directly. I ask you again, are there any circumstances under which it is prudent to put a vessel hard a-starboard or hard a-port?

Answer. There is.

Question. If a vessel, steam vessel, sailing on the starboard tack eight or nine knots an hour, or from seven to nine knots, sees a schooner on the larboard tack a quarter of a mile off, two points on the larboard bow, how should the helm be moved, if moved at all, to avoid a collision?

Answer. It would depend on how the schooner was steering.

Question. Suppose the schooner was steering N. E. and the Columbus S. W.

Answer. Put the helm to port.

Question. If the helm had been put to port when the schooner was a quarter of a mile off, and the schooner had kept straight ahead, without altering her course at all, would not the Columbus, with her course thus altered, in all probability have avoided the schooner?

Answer. She would; and if the Columbus had kept on straight she would have avoided her.

Question. Then what is your opinion of the cause of the collision?

Answer. Not seeing the vessels, can't say.

Question. But are you quite positive in the opinion that if the schooner had kept straight on her course, if the helm of the Columbus had been put hard a-port, that the Collision would have been avoided?

Answer. I can't answer it exactly; if the schooner had kept straight on her N. E. course they would have avoided the collision.

Question. What would have been the effect upon the speed of the Columbus, when going at the rate of seven or eight knots, if her helm was put hard a-port; would she have gone faster or slower?

Answer. I think she would have gone faster, for it would have brought her into the trough of the sea.

Question. Do you know, or have you heard, how the schooner was steering when there was a cry of "Sail ahead?"

Answer. I don't know; I heard she was coming right at the Columbus.

Question. You have said that if the schooner had kept straight on her N. E. course, and the helm of the Columbus had been put hard a-port, a collision would have been avoided; would it not have been the same if she had been sailing a N. and N. by E. course?

Answer. I can't say.

Question. Why can you say in the one case and not in the other?

Answer. If the schooner was steering N. E. two points on the Columbus's larboard bow, and the Columbus steering S. W., they would have passed one another without any collision.

Question. Suppose the schooner had been steering N. and N. by E., and the Columbus S. W., and on her starboard tack, the schooner being on her larboard tack, and the helm of the Columbus put hard a-port when a quarter of a mile from the schooner, would not a collision have been avoided?

Answer. I think it would.

Question. Captain, when a vessel with the wind free approaches a vessel on the wind at sea, which ought to go free?

Answer. It is always considered that the one on the wind must keep her course, and the vessel with the wind free should give way.

Question. If two vessels are approaching each other, one with the wind free and the other on a wind, and the one with the wind free does not give way, and the vessel on a wind keeps her course and a collision takes place, is not the vessel with the wind free in fault?

[Objected to.]

Answer. It is considered so by sailors.

Question. Captain, about how far, on this morning in question, when you came on deck, about how far do you suppose a voice hailing the schooner could have been heard before the collision, or when things were quiet?

Answer. I should judge but a short distance; I should think on this occasion not 50 yards.

Question. The sea is sometimes so high, and the wind, that it is difficult to make a vessel hear you at all, is it not?

Answer. Yes, sir.

Question. Then would it not be very imprudent to apply your rule of stopping the engine of a steam vessel to hail another one, when the wind was so high that a voice could be heard only a few yards; would it not be better in such a case as that, if the vessels saw each other in time, to shift the helm in the proper way?

Answer. I have found it to be the most safest and prudentest plan to stop the boat.

Question. Captain, you have not answered my question; I put it to you again in the same words.

Answer. I give the same answer.

Question. Did you not tell me that the reason and object of stopping a steam vessel to avoid a collision, was to hail the other vessel; were those not your exact words?

Answer. I don't recollect about that.

Question. Did you not tell me that the reason and object, in your opinion, of stopping a steam vessel to avoid a collision, was to hail the other vessel; if those were not your exact words, was it not the substance of what you said?

Answer. I meant to say that the most prudent and best way, to my knowledge, was to stop the ship, where a vessel was coming head at you, and to hail her, for to save collision; that's the whole sum and substance of it.

Question. Is not the object of stopping the one vessel to hail, the object; did you not say that, in your opinion, that was the object?

Answer. I don't recollect that; I said before, I gave my reason why it was done.

Question. Is the object and reason of stopping a ship when the cry of "sail ahead" is given, to enable the vessel which is stopped to hail the other?

Answer. Not in all cases.

Question. Is it with you?

Answer. It is with me.

Question. Then would you do it when the wind and sea were so high that your voice couldn't be heard?

Answer. Can't say.

Question. Can't you say; would it not be very unseamanlike and unwise for you to practise upon your rule which you say exists with you, when the wind and sea were so high that the hailing voice could not be heard?

Answer. I never experienced a time like that on board a ship.

Question. Have you not said that there are times at sea when the voice can only be heard a few yards?

Answer. Yes, sir.

Question. In such a case as that, when a steamer was approaching, would the rule which you say exists with you, of stopping to hail in order to avoid a collision, be a safe one to act upon at that time?

Answer. I don't allude to a gale of wind, I allude to common fair weather.

Question. Then in a gale of wind, if you should see a vessel and think there was danger of a collision, would you not do your best to avoid it by your helm, shifting it in the proper way and keeping your engine going, if you saw the other vessel?

Answer. Certainly, sir.

Question. Does not the Columbus steer with difficulty, or does she steer with ease?

Answer. She steers as well as a vessel can steer.

Question. How long a time does it take when the Columbus is in motion, to the best of your knowledge, to stop her engine, reverse her engine, and commence her backward motion?

Answer. I can't say, sir; I never took notice of the time.

Question. How long have you had charge of a steam vessel or a steamboat?

Answer. I have been connected with steamboats from 15 to 20 years.

Question. Well, then, can't you give me some idea when the steam vessel 8 knots an hour, when the engine is stopped, how long it would take before her headway is stopped and her backward motion begins?

Answer. I can't say; the engineer can tell you more about that than I can.

Question. Is it the habit of every vessel at sea to carry a watch?

Answer. Yes, sir, it is, at all times.

Question. Is it not the duty of a watch as soon as a sail ahead is seen, to sing it out?

Answer. It is, sir.

Question. Is it not the duty of an officer of the deck, as soon as there is a cry of "Sail ahead," to take the best means, and the best means in his power, to avoid a collision?

Answer. Yes, sir.

Question. Is the rule which you say is the rule with you, on such occasions, as one you deem most prudent, the rule in all steamships on similar occasions?

Answer. It has been in all steamboats that I have ever been in; in case where we see a vessel right ahead, don't know which way she is steering, to stop the engine.

Question. I desire to pass from your personal experience to other steam vessels of which you may have heard, and I ask you what the general rule is when a steamboat approaches another vessel, and I will thank you to answer, if you can, without illustrating it by your own personal experience of which you have spoken already.

Answer. In approaching a vessel, if she is on the starboard bow, we starboard our wheel to give her room; on the larboard bow, port our wheel and give her room on that side; if she is right ahead, and see her in time, as you see her position and how she is steering, give the ship her wheel 'cordingly, to clear her; that's as nigh as I can come at it.

Question. Your sea life has been confined to the duty of a pilot?

Answer. Principally, sir.

Question. In what respect has it varied from that?

Answer. I have been captain of a steamship or steam propeller trading from Philadelphia to New York by sea.

Question. On any other occasion?

Answer. As captain of same steamer from Philadelphia to Albany and Troy, via Canal, Cape May boats. My duties as a pilot have been both in sail vessels and steam vessels for the last fifteen or twenty years. I never piloted further than Charleston.

Question. Had the Steamer Columbus any sail on when you went on deck?

Answer. To the best of my recollection she had nothing except a spanker.

Re-examined.

Question. Did I understand you correctly, that your only object in stopping a steamer was to hail the other vessel? Was that your only object?

Answer. My meaning was, by stopping the ship, where you had an opportunity to hail the vessel, was the safest way to save a collision. That is my meaning.

Question. Did you mean to say that where you had no opportunity of hailing, that there was no use of stopping the vessel? (Objected to by Mr. Rush as being too leading.)

Mr. Waln modifies the question.

Question. You can hail a vessel without stopping an engine, can't you?

Answer. Yes, sir.

Question. A vessel on your bow coming right at you, would, stopping or backing the steamboat, increase or diminish the effect of a collision?

Answer. Diminish it very much.

Question. A vessel coming right at you, would there be, if you were to shift your helm either to the one side or the other, the possibility of the other vessel shifting hers the same way, and thus producing a collision?

Answer. What's the question?

Question repeated.

Answer. It is considered that they would be more apt to produce a collision then than if we stopped.

Question. Is it not, Captain Bennett, like two persons meeting on shore, you know, in a narrow way?

Answer. Exactly.

Question. What is the prudent course for one to take?

Answer. To stop, sir.

Question. Then you did not mean, captain, that your stopping to hail was the sole and only reason?

Answer. I meant to say that by stopping the ship and hailing the vessel would be more apt to avoid a collision than though you hard a-starboard or hard a-port.

Question. In this case which would have been most prudent, to put the helm hard a-port or hard a-starboard, or to have stopped the engine?

Answer. I can't answer, not seeing the position.

Question. How would the wind forward of the beam affect the voice in hailing?

Answer. It would affect it considerable, much more so than aft.

Question. Did you feel any shock before you came on deck?

Answer. No, sir.

Question. Did you feel any collision?

Answer. No, sir.

Question. What do you mean by collision?

Answer. I mean shock.

Question. Did you ever sail in a vessel where all the officers were allowed to go below when you were approaching land? (Objected as not drawn out by cross examination.)

Answer. No, sir.

Question. What kind of conduct would you call a vessel on sounding, not having had an observation for two or three days from the sun, running into land, and all the officers below?

Answer. Very poor conduct indeed.

Mr. Waln. Explain. Sailor-like, watchful, negligent or carelessness?

Answer. I shouldn't call it sailor-like. I don't know what I should call it.

Question. Seeing a vessel at sea, depends on her size or not?

Answer. Yes, sir, larger she is, further we can see her.

Question. How far could the Columbus been seen that night at the time of the accident?

Answer. I should judge they could have seen her from one to three miles with ease.

Question. Do you know Mr. Welsh?

Answer. Yes, sir.

Question. What kind of an officer is he, sir? (Mr. Rush objects to the question.)

Answer. Very good one, as far as I know him; I have known him ten or twelve years.

Re-cross examined.

Question. If the Columbus could have been seen from one to three miles, I should suppose that standing on her decks a person could see the same distance, could they not?

Answer. I should judge you could see the Columbus two miles when you wouldn't see the schooner a quarter of a mile. The Columbus having lights and the schooner none; further than that, the Columbus being a large vessel.

(Signed) JEREMIAH BENNETT.

Taken, sworn and subscribed, February 27, 1849.

(Signed) CHARLES F. HEAZLITT,
Commissioner.

In the district court of the United States, in and for the eastern district of Pennsylvania.

JOHN SANDERSON vs. THE COLUMBUS. } Collision.

Depositions taken by consent, before Charles F. Heazlitt, commissioner, March 1, 1849.

J. MURRAY RUSH, Esq., *For libellant.*

EDWARD WALN, Esq., *For respondent.*

Joseph L. Parry, a witness produced and sworn on the part of the respondent, deposes and says:

Question. What occupation are you?

Answer. I am engineer of the Steamship Columbus.

Question. How long have you followed that business?

Answer. About seventeen years.

Question. Have you ever been in steamships? State what kind of engines you have been connected with?

Answer. I have been at sea in steam vessels as engineer. I have also managed locomotives and stationary engines.

Question. Were you on board the steamboat Columbus in December, 1848, on the occasion of the collision with the Mission?

Answer. I was, sir.

Question. In what capacity?

Answer. As chief engineer.

Question. How many does your engineers' crew consist of?

Answer. Eight persons.

Question. Who are they?

Answer. Myself, second engineer, and six firemen.

Question. Do you take watches at the engine?

Answer. Yes, sir.

Question. Whose watch was it?

Answer. Chief engineer's watch.

Question. State, if you please, where you were when the order was given by Mr. Welsh, and what the order was at the time of the accident?

Answer. I was at the engine room when the sail was sung out, "Sail ahead." Mr. Welsh was on the engine-house over the engine, on the starboard side of the ship. Mr. Welsh run forward, and I went to the starting bar of the engine; the order of Mr. Welsh was to stop her. I stopped the engine; I then heard the order from Mr. Welsh to back her. I kept the engine backing until my second engineer went on deck, and sung out to me to stop her.

Question. Can you tell us now, sir, about how long would it take from the time the word "sail ahead" was cried, till the time of the reversing of the engine would stop her headway?

Answer. The positive time that the headway was stopped I can't positively say, because I couldn't see, but the engine was backing in about ten seconds from the time the order was given; 'twas mighty quick work. I never handled an engine so quickly in my life.

Question. How long would it take that engine, going as the steamer was that night, I mean at the time of the collision. How long would it take to give the steamer a backward motion?

Answer. I could put her dead in the water in thirty seconds; she would go back then in about five seconds more.

Question. Do I understand you to say that the ship had a backward motion in thirty-five seconds, after the order to stop her?

Answer. I should say, that in three-quarters of a minute she began to move back, sir.

Question. What kind of an engine is that in the Columbus?

Answer. It is a very good engine, now; at the time of the accident it was a good engine.

Question. Where were you stationed during the time that elapsed, from the speaking the schooner till it was all over?

Answer. I did not leave my starting bar till after I was done backing.

Question. From your position, and from your natural vigilance on the occasion, state whether or not there was a shock or concussion.

Answer. There was nothing to indicate a collision in the engine; I had no idea that we had struck the vessel, when the word "stop backing" was given.

Question. Have you had any experience about the most prudent course to adopt, where a steamboat sees a vessel ahead coming, steering with head right towards her?

Answer. I consider it best to stop the engine.

Question. Why, sir?

Answer. To avoid collision. I think it is the best way, because it is the quickest way.

Question. Is that your only reason?

Answer. Well, we do not always know whether the vessel coming towards us can see us.

Question. Is there any other reason; suppose she does see you?

Answer. Well, I know of no other way in my department; so far as steering the ship depends, that's not my department.

Question. Are you sailor enough to give us an opinion?

Answer. I am not sailor enough to give an opinion in sea-going steamers.

Question. From your position that night at your starting bar, is it likely or unlikely you would have felt the shock or concussion?

Answer. I suppose so; if we had been going on with headway, we should have felt it of course.

Question. Can you state, at the time of the accident, what was the motion of the steamer, going ahead, lying still in the water, or backing?

Answer. I believe the ship was still in the water.

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Question. Did you have any conversation with Burgess at any time, about the accident, and how it happened?

Answer. I had some conversation with him. He said he didn't know whether the watch on the schooner was awake or not; he did not know whether he was.

Question. Did he say where the officers of the schooner were?

Answer. He said the captain was turned in.

Question. Do you know how the accident happened; can you tell us?

Answer. I don't know. I can't tell that; my position did not enable me to see it. I never saw the schooner at all. I couldn't have done better than I did do, if I had it to do twenty times over again. I had no idea of the vessels coming together.

Question. What is the size of the room where the signal-light was hanging?

Answer. It is seven feet by nine.

Question. Where is it?

Answer. It is abaft the foremast, about sixty feet from the bow.

Upon consideration, witness thinks it is about 50 feet from the bow.

Question. How high is it?

Answer. The lights are about two feet above the rail of the vessel; by lights, I mean the windows of the house; there is three in front, and occupy the whole front; there is one window and a door on each side, and one aft.

Question. Is or is not those windows high enough above the rail of the vessel to be seen in the different directions all round?

Answer. I consider them high enough to be seen, say three miles; we always meet either the Northerner or Southerner, and can see them five miles; the Columbus could have been seen, that night, five miles easy.

(Signed) JOSEPH L. PARRY.

Adjourned till to-morrow at 4 o'clock, p. m.

March 2, 1849. *Cross examined by J. Murray Rush, esq.*

Question. What country do you come from?

Answer. Philadelphia, sir.

Question. How old are you, Mr. Parry?

Answer. Between 38 and 39; 39 in April.

Question. Have you any knowledge in which way the schooner approached the Columbus that morning?

Answer. I have not, sir.

Question. Did you hear the captain or Mr. Welsh, at the time of the accident, say how the schooner was approaching?

Answer. I did not.

Question. In your conduct, as chief engineer on that occasion, did you do anything except, to the best of your ability and discretion, obey the order that was given to you?

Answer. I obeyed the orders to the best of my ability, and nothing else.

Question. Is it in the power of the engineer who has charge of the engine, to increase as well as diminish, at his pleasure, the speed of the vessel?

Answer. Not at all times.

Question. Can he diminish her speed at all times, if he pleases?

Answer. Yes.

Question. Under what circumstances can he not increase it at his pleasure?

Answer. It depends on the quality of the coal; if we have good coal, we can run the steam up to any height, to burst the boilers if we choose.

Question. Then where your coal is good and suited to your purposes, I understand you to say that the engineer has it in his power to increase his speed to the utmost prudent point?

Answer. Yes, sir.

Question. What kind of coal had you on the occasion of that accident, and what was your power over the steam?

Answer. I had good coal on board, and could carry what steam I thought proper.

Question. Do you recollect about what rate the steamer was going when the order was given to you to stop and back?

Answer. About 8½ knots.

Question. How much could you have increased her steam and her headway, of course, without bursting the boiler, when the order was given to stop, had the order been of a different character?

Answer. I could have drove the ship a knot and a half faster per hour.

Question. Would it have been prudent to have driven her more than that?

Answer. There would not have been any danger.

Question. Why could you not have driven her more than a knot and a half per hour faster?

Answer. I had not power enough; I mean in the engine.

Question. What is the power of that engine?

Answer. It is rated at 200-horse power.

Question. How powerful an engine could the steamer Columbus carry to work her with safety and skill?

Answer. She could carry 500-horse power.

Question. Suppose she had a 500-horse power engine, what would be her utmost speed, for prudence and safety in navigating, when it was important to give her her utmost speed?

Answer. I would suppose about 14 knots?

Question. Be good enough to state whether or not all steam vessels, steamboats as well as steamships, are not constructed with longer rudders than sail vessels, to give them more efficacy and promptitude in steering?

Answer. They generally have larger rudders than sailing vessels, sir.

Question. In what respect are they larger; are they not longer considerably, as well as broader?

Answer. They can only be larger in one way, because they can't go below the bottom of the vessel.

Question. Then in what respect are they enlarged?

Answer. They extend further aft from the stern.

Question. What is the effect upon the vessel of that increased length of rudder, and what is the object of such increase?

Answer. The object is to make them steer quick, and the effect is generally so.

Question. Suppose a vessel on the wind with sails, going but 4 or 5 knots an hour, and put a steamship with a powerful engine exactly in the same position, and with all the steam on that she can safely carry, what would be the relative velocity of those two vessels; which would go the faster of the two; the vessels being the same size, and only differing in the fact that one was a sail vessel and the other was a steam vessel?

Answer. It would be altogether owing to the quality of the steam vessel; some steamships cannot go as fast as some sailing vessels; it is not uncommon for an American packet to beat an English steam frigate.

Question. Take two equally well-built Philadelphia ships of the same number of tons, constructed by the same constructor on the same model; give one of them sails, and give the other a 500-horse power engine; put them in the same situation at sea, and suppose that upon experiment that their sailing qualities had been found equal; take both of them at sea on a wind, and close-hauled; suppose the sail ship is going the best she can with her canvass, and makes but five knots, the engine of the other in full operation, her machinery in good order, with as full a head of steam on as she can carry—what do you think would be the relative velocity of those two vessels?

Answer. If the model of the ship was suitable, the steamer would beat.

Question. What do you suppose would be the increased velocity, supposing the model of the steamship to be a proper one, would she not go nearer 10?

Answer. Yes, sir, she would; I don't think she would go more than that; it is a hard matter to get a steamer to go over 10 knots; the Cunard steamers, the old ones, are about 9½ knots; the new ones are said to exceed that, but I don't know it; the reason why they make so many knots, they make a certain number of degrees of longitude in 24 hours; the degrees of longitude from Liverpool to New York are not 60 miles to the degree, on account of its being so far north; that is the way they make up the reports of going so many knots.

Question. Then, Mr. Parry, I may infer from your answer, as a general truth now admitted, that the steam marine has greater advan-

tage over the sailing ships, on the score of speed, other circumstances being equal.

Answer. Yes.

Question. Is it not generally now conceived, the circumstances in each case being equal, that a steam vessel under a full head of steam is considered to be able to get along in the water as well as a sail ship, with the wind free; and when I say circumstances equal, I mean wind and tide, and adaptation of the model to the purposes of the vessel.

Answer. Yes, sir.

(Signed) JOSEPH L. PARRY.

Subscribed, March 2, 1849.

(Signed) CHAS. F. HEAZLITT,
Commissioner.

In the district court of the United States in and for the eastern district of Pennsylvania.

SANDERSON
vs.
THE STEAMER COLUMBUS. } In admiralty.

Interrogatories to be propounded to witnesses to be produced, sworn, or affirmed, and examined on behalf of the respondents and claimants, under a commission to Charleston, S. C.

First. Were you on board of the steamer Columbus on her trip from Philadelphia to Charleston in the month of December, 1848; if yes, in what capacity?

Second. In what part of the steamer were you when a collision took place between the steamer and the Schooner Mission on the morning of December 3d, 1848, and whether there was any or much of a concussion or jar to the steamer from the collision?

Third. State whether you were present on any occasion, and if yes, when and where, when Wilson G. Burgess, the man saved from the "Mission," signed or made his mark to a statement of the facts and causes attending the collision. State in full and detail, and all that was said by Burgess and by Captain Peck, who furnished the facts contained in so much of the statement as related to the persons on board the "Mission," and whether Burgess made any approving or dissenting remark about the statements therein mentioned about the condition of the Columbus, and the conduct of her officers and crew; and if so, what did he say; and whether any influence of any kind was used, or hinted, or intimated by any one towards Burgess, to induce him to narrate untruly or to sign the said statement.

Fourth. State whether any other persons were present on the occasion of preparing and signing said statement; and if yes, who were they. And whether the place where such statement was prepared and signed was a private one or open generally to, and accessible by, all the passengers, and how many passengers were aboard?

Fifth. Do you know any other matter or thing material to the respondents in this case; if yes, state the same fully and in detail, as if you were particularly interrogated thereto?

EDW. WALN,
Proctor for respondent.

[SEAL.]

A true copy from the original filed.

THOMAS L. KANE,
Clerk district court U. S.

Cross interrogatories to be propounded to witnesses to be produced, sworn, or affirmed, and examined on behalf of the respondents and claimants, under a commission to Charleston S. C.

First. None.

Second. Do you know that a collision took place? How do you know it? If you answer yea to the first question of this cross interrogatory, when did you turn into your berth on Saturday night, the 2d December? When did you awake; what awoke you?

Third. If you say you were present when Wilson Burgess made his mark to a statement of the facts of the case, state if you know who sent for him, and whether you were present when he came to Captain Peck? Who was with him when he came? Who commenced the conversation? What did Captain Peck say? Did Wilson Burgess volunteer to come forward and sign that paper? Had you any conversation with Captain Peck about Burgess signing a paper before Burgess came to Captain Peck? If yea, state what it was, and what reason Captain Peck gave for wishing that paper signed. State whether Burgess signed the first paper which was read to him. State in whose handwriting the paper was, and whether Burgess did not object to sign a paper which was first read to him. State whether Captain Peck did not ask Burgess whether the man at the helm was not asleep.

Fourth. State whether many persons were about or around Burgess at the time he signed it. Do you know whether he had received any liquor on the day that he signed it? What time of day was it when he signed it; was it before or after noon? Was it not less than twelve hours after the Mission sunk? If not, how many hours do you suppose it was after the Mission sunk? How many days after the collision did the Columbus reach Charleston? What was the day she reached Charleston? What was the object in Captain Peck taking the signature of Burgess before he reached Charleston? Did he tell you? Did you hear Captain Peck say? Do you know?

Fifth. Nothing.

J. MURRAY RUSH,
Proctor for libellant.

[SEAL.]

A true copy from the original filed.

THOMAS L. KANE,
Clerk district court U. S.

Depositions of witnesses examined under and by virtue of the annexed commission issuing out of the district court of the United States for the eastern district of Pennsylvania, in a certain cause wherein John Sanderson is libellant, and the Steamer Columbus, Peck, master, and Peck and others claimants and respondents.

John Baker, a witness produced on the part and behalf of the respondents, being duly affirmed, deposeth and saith as follows:

To the first interrogatory he answereth and saith: I was. A passenger.

To the second. In my berth, abaft the engine. I was not sensible of any concussion or jar. I was asleep at the time; a fellow passenger awoke me, and finding the engine reversed I hastened on deck to ascertain the cause.

To the third. I was present when Wilson G. Burgess made his mark to the statement referred to. It took place in the captain's office, about twelve o'clock, m. Captain Peck called Burgess into the office, and said he wished him to give a statement of facts in regard to the sinking of the Mission, as he wished to publish it on his arrival in Charleston. Burgess gave a plain statement, in this way: He said that the captain and mate were both below asleep, and that the man who was on the lookout forward must have been asleep too, as they never saw or heard anything until they came into contact. Burgess furnished the facts in the statement relative to the persons on board of the Mission. Captain Peck wrote off the statement, and asked Burgess to read it. Burgess requested Captain Peck to read it to him. He did so, and Burgess remarked that he believed it to be a correct statement of facts, and put his mark to it. He then left the office, and went among the passengers again. I was in the captain's office from the time Burgess came into it till the statement was made, written off, and signed as above mentioned. I can testify that no influence whatsoever was used with Burgess to get him to sign the statement. The statement was drawn up in a very public manner, the office being open all the time, and other passengers at liberty to go in and out. Burgess made no remark on any part of the statement, except as above mentioned.

To the fourth. I do not remember particularly any other persons that were present; there were about sixty passengers on board. I have already answered the rest of this question.

To the fifth. I have been a commander of vessels for many years between the cities of Philadelphia and Charleston. It was invariably my practice to have a good watch forward, and always an officer on deck. I should have considered it unpardonable for the officer in charge of the vessel to have gone below and gone to sleep, as the safety of the lives and vessel depend on his vigilance and care. Small vessels usually carry but two officers, a captain and mate, whose duty it is to take their regular turn in standing watch. In the case of the Mission, Burgess stated it was the captain's watch on deck, but he was below

asleep. Had he been on deck the accident would not probably have occurred, as his own watch would have been on the lookout, and must have seen the Columbus's lights. He would also have shown his own binnacle-light to the Columbus, which is customary when vessels pass each other at night. This would have enabled the watch on the Columbus to have discovered the Mission much earlier, and thus prevented the collision. Had the watch on the schooner seen the Columbus, it would have been perfectly easy to have avoided her. I have made three passages as a passenger in the Columbus, under the same officers now in her, and, being an old sailor, often visited the deck during the night time, and on this very night was on deck till about twelve o'clock; and I can confidently affirm that I have never been on board of a ship where there was a more strict and attentive watch kept during the night.

To the second cross interrogatory he saith: I do know that a collision took place, though I did not actually see it. I went on deck soon after it occurred, and saw the Schooner Mission go down. I turned into my berth that night about twelve o'clock. About two I was awakened by a passenger in the same state-room, who asked me if I did not think the steamer had struck something. I told him I thought it must be only the head sea. (There was a heavy head sea.) Just then I found the engine was reversed, and ran on deck to see what was the matter. I then saw the wreck of the schooner not far off, and found them busy lowering a boat to go to her assistance. But by the time the boat got to the spot, the schooner had gone down.

To the third. I was present when Wilson B. Burgess made his mark to the statement. Captain Peck sent for him. I was present when he came to Captain Peck. I do not remember any person being with him. Captain Peck commenced the conversation, and asked Burgess to make a plain statement of facts, as he wished to publish it on his arrival at Charleston. Burgess did not volunteer to come forward; Captain Peck sent for him, as I have stated. I had had some conversation with Capt. Peck on the subject; he asked me if I thought it advisable to have a statement of facts, and I said I thought it was so. The reason assigned by Captain Peck for wishing a statement of facts to be signed by Burgess was, that he (Burgess) was the only living evidence. Burgess did sign the first paper that was read to him, and the only one which, to my knowledge, was prepared. He made no objection, but signed it without hesitation. It was in the handwriting of Captain Peck. I do not remember Captain Peck asking Burgess if the man at the wheel was asleep.

To the fourth. I cannot say whether many persons were about or around Burgess when he signed it; but both of the office doors were open, and passengers continually passing. I do not know whether he had received any liquor on board of the Columbus that day; but I saw no appearance of it; nor did I see any spirits or liquor of any kind on board of the Columbus at all. I think it was about twelve o'clock, m., when he signed it; I supposed it was about nine hours after the Mission

sunk. The Columbus arrived at Charleston on the following day, viz., Monday morning. I do not know what was Captain Peck's object further than I have already stated. He did not tell me, nor did I hear him mention any other. But I know that it is customary with packet captains always to prepare any report they have to make before their arrival in port, so that it may be delivered to the boarding officer when he boards the vessel. The Columbus arrived at the bar of Charleston at daybreak on Monday morning.

JNO. BAKER.

Examination taken, reduced to writing, and by the witness subscribed and affirmed to, at Charleston, this 18th day of April, 1849, before me,

HENRY D. LESESNE,
Commissioner.

Afterwards, to wit, on the second day of December, A. D. 1850, the court make and pronounce their decree, in the words following, to wit:

In the district court of the United States, eastern district of Pennsylvania.—In admiralty.

SANDERSON
vs.
THE COLUMBUS.

Kane, J.—The leading facts upon which my decree in this case will rest are these:—

The steam propeller Columbus left Philadelphia on the 30th of November, 1848, for Charleston, S. C., and at half-past two o'clock in the morning of the 3d December, (civil time,) she was in the neighborhood of Cape Lookout shoals, heading southwest, on her starboard tack, going about nine knots an hour.

The schooner Mission, a new vessel of one hundred and twelve tons, was returning into Edenton, N. C., with a cargo of salt from Rum Key. She was on her larboard tack, steering northeast, going at the rate of five knots, or something less.

The wind was fresh from the northwest; the sea was rough, from the action of a southeast wind that had prevailed for some days before; it was a starlight night.

It is said that the two vessels were about three hundred yards from each other, perhaps less, perhaps a little more, when the lookout man of the steamer saw the schooner approaching, bearing about a point or a point and a half on the steamer's larboard bow. The engine was stopped at once, and reversed; but there was no hail on either side, and neither vessel varied her course. The consequence was a collision of the steamer's bow and the starboard quarter of the schooner, and the schooner sank immediately.

Whatever of controversy there may be as to other supposed or asserted facts, I believe that there is nothing in this succinct recital I have

made, which does not consist with the proofs exhibited in the case, and relied on by the respondents; and, if my views are just, it is not necessary to go beyond it. The question, whether the captain of the schooner was or was not improperly below at the time of the collision, or whether the lookout man of the schooner was asleep, it might, perhaps, be difficult to decide; since the two persons, whose evidence upon it would be of most interest, were lost with the vessel. But the present issue connects itself no further with the conduct of the parties, than as that conduct may have contributed to bring about the collision.

I am to decide the simple question—was the collision occasioned by the fault of one or of the other vessel, or was it unavoidable? And this question, though perhaps at first glance an embarrassing one to a person unfamiliar with those usages of navigation that form part of the law of the sea, admits of an easy solution with reference to them. I have been a little surprised to learn from some of the skilful seamen who have been examined in this case, how little is known of those usages on shipboard.

It is a rule, founded altogether in reason, and long and thoroughly recognised in the admiralty, that on the open seas, vessels going free shall give way to those that are going close-hauled; and the correlative is equally well established, that a vessel going close-hauled when meeting a vessel going free shall hold her course. These are absolute rules; and the vessel that violates either of them becomes answerable for any collision which may be the consequence.

The reason of them is plain. The vessel going free has the command of her movements much more fully than the one that is close-hauled. She can pass in either direction by a simple inclination of her helm, and without considerable loss of way; while the close-hauled vessel can turn only in one direction, unless she goes into stays, and loses her course by the manœuvre—hence the duty of the vessel going free. And as the vessel going close-hauled might, by changing her course, place herself in the way of the other vessel, while that was conforming to the rule for the purpose of avoiding her, the duty enjoined on the close-hauled vessel is equally reasonable.

The same considerations which at first suggested these rules for sailing vessels, have, since steam has begun to be extensively applied as a motive power in navigation, grafted on them a rule applicable to steamers, viz., that a steamer shall be regarded always as a vessel going free, and must give way in consequence to a sailing vessel going close-hauled. And this extension of the first rule implies a similar extension of the second, viz., that a vessel going close-hauled, and meeting a steamer, shall not be at liberty to change her course. I have not indeed met a reported case, which called for the enunciation of the rule thus modified; but I cannot doubt that as the argument which led to the original rule would apply with equal force to its modification also, the courts of admiralty would enforce both alike.

The application of these rules to the few facts I have recited may decide the present case. It was the duty of the Mission to hold her

course; and it is conceded that she did so. The steamer, on the other hand, was bound to give way—not merely to check her progress, but to change her course—in a word, to prevent the collision. It is conceded that she did not do so.

To relieve herself from the liability which should follow from this state of facts, two excuses are offered on behalf of the steamer:—1. That when the schooner was first descried, the distance between the two vessels was not sufficient to permit the steamer to give way in time. 2. That from the courses the two vessels were steering, heading nearly towards each other, with but three points of the compass or about thirty-four degrees of divergence between them, the steamer could not know in time which way the schooner was steering, and could not decide therefore in which direction, she, the steamer, ought to pass in order to avoid her.

The first of these excuses is clearly a mistake if the evidence is correct that the steamer had overcome, or nearly overcome, her momentum before a collision; for it requires no argument to show that a steamer going nine knots an hour can change her direction by shifting her helm much more promptly than she can bring herself to a state of rest in the water; and this remark is especially true of propellers generally, which answer their helm more readily than other vessels, and is sworn to be true in reference to the Columbus. Besides, it is demonstrable from the allegations of the witnesses themselves, which are in proof, that the accident could not have taken place had the steamer changed her helm in either direction, or had she even kept on her way. The medium rate of the steamer's motion, from the moment of seeing the schooner to the moment of the encounter, was about 4½ knots, or a little more: I say a little more, because the steamer was going at the rate of nine knots an hour at first, and because I think the manner in which the two vessels struck, and the character of the injury sustained by the schooner, as well as the fact that one of the drowning seamen from the wreck drifted past the steamer, go to show that the steamer's motion had not been entirely arrested when they came together. The schooner's rate of motion being something less than 5 knots, or about the same as the medium rate of the steamer, the two vessels passed over very nearly equal spaces in the same time; and a simple trigonometrical computation from the elements given in the evidence, (viz., their distance 300 yards, and their bearing 1½ points,) determines for us that each passed over 157 yards before they met. Had the steamer kept up her speed of 9 knots, she would have passed over more than 300 yards, instead of 157; and as her length is only 165 feet, and the schooner's only 76, it is clear they would have passed each other in safety. Another result from the same computation is, that the vessels were approaching each other for about a minute and an eighth after the schooner was descried, a space of time abundantly sufficient to have allowed the steamer to give way by changing her helm.

The second excuse offered involves two questions:

1. Was there time enough after the schooner was seen, to determine

the direction of her course from on board the steamer? 2. If there was not, was it the fault of the steamer that the schooner was not seen sooner?

1. The broad side of the schooner, with her sail set, was in fact more than 90 feet long, and seen obliquely from the steamer's bow, in the direction indicated by the evidence, she presented a surface of 30 feet at right angles to the line of view. She was heading northward, across the bow of the steamer, close-hauled; and her apparent rate of motion, as seen by the lookout, before the steamer slacked her speed, was less than that of the steamer about $2\frac{1}{8}$ per second. Had she been heading eastward of the steamer's bow, she would have been going free, with the wind abeam; and the apparent difference between rates of motions of the two vessels, as seen by the lookout, would then have been $6\frac{3}{8}$ feet a second. Or, in other words, the vessels would in one case have appeared to be nearing each other at the rate of $1\frac{1}{4}$, and in the other of $4\frac{1}{2}$ knots. Now, I am not enough of a seaman to decide, whether the practised eye of a good lookout man would, or would not, have been able so to mark the difference in appearance and rate of motion in the two cases, as to determine at once in which direction the sail he saw was heading.

2. But, on the other point, I have no difficulty. The evidence is, that the night was clear; and it is the opinion of the skilful shipmasters, who heard the case with me as assessors, that in such a night, a vessel keeping a proper lookout should have seen another approaching her, $1\frac{1}{2}$ points off her bow, at a much more considerable distance. I have myself made the trial; and though not by any means a person of more acute vision than landmen generally, I have no difficulty in discerning objects against the horizon, not larger than the Mission appeared; seen obliquely, at a distance of nearly the double of 300 yards. And I agree, therefore, with them in thinking that the fault in which this collision had its origin is imputed to the want of proper lookout on the part of the steamer.

I have thus far discussed the case upon the premises put forward by the respondents. All the evidence, indeed, except that of the schooner's helmsman, the only survivor of her crew, who saw nothing, and from his position could see nothing till the steamer was cutting through his deck, all the rest of the evidence is from persons on board the steamer, and of these only the lookout man and the mate saw the schooner before the two vessels were in contact. It could scarcely be expected that the lookout man should attest his own want of vigilance; and it is not to make a serious imputation against him, to admit that he cannot now recall with unbiassed accuracy the collateral incidents of a catastrophe to which he was at least a painfully interested witness, if not a responsible party.

I confess, that, after looking carefully through all the testimony, I am not without my doubts whether the schooner was seen at all, until she approached nearer than the witnesses represent. There is nothing about which honest men swear so vaguely and contradictorily, as the

times which mark the progress of an exciting incident, and the distances at the particular moments of such an incident, between objects that are both of them in motion; especially on the open sea, where there are no fixed objects intervening, and at night when even the waves cannot be seen. It is often safer, in such a case, to refer back to the action which the circumstances of the moment suggested, in order to determine their character and force, than to seek to recall by a direct exercise or memory, the precise circumstances themselves. Our best reasonings will be apt to mislead us, if we undertake to criticise the policy of our past actions, when time has begun to obscure the motives that led to them. On the other hand, what we call impulse is frequently nothing else than rapid deduction from observed facts.

Now, the mate of the Columbus is represented, and I have no doubt truly, as an excellent seaman. From the moment the collision took place, nothing could be better than his management of the steamer, and the efforts he made to save the crew of the sinking vessel. How such a seaman, in command for the time of the steamer's deck, should have contented himself with stopping and reversing the engine, without shifting his helm, if there was time to do so, I am altogether unable to understand. If he was nearing the schooner for more than a minute after his attention was called to her, it is incredible to me that he could have omitted to put his wheel to port or to starboard. To have done so would have diminished the force of the collision, if a collision was unavoidable. I can hardly be mistaken in saying that it might have prevented it—it could under no aspect have done harm, and it was the manœuvre enjoined by the rules of navigation.

There are other considerations which have the same tendency. I have already adverted to the fact that the steamer had not overcome her headway when the encounter took place; yet she had reversed her engine at the moment of the alarm. Can it be that a steamer, whose machinery is capable of impelling her 9 miles an hour with the wind abeam, is unable by reversing its action to arrest her course in less time than a minute and an eighth? It has been said, arbitrarily, perhaps, that a steamer can bring herself up in her own length: we must assume that the Columbus cannot do so in less than three times that space; or else we must admit that the witnesses have over-estimated her distance from the schooner when the schooner was seen first.

Another circumstance still appears to me scarcely reconcilable with the idea of the schooner having been seen approaching so long; it is, that she was not hailed by any one on board the steamer. It is said that the weather was too rough to allow a hail to be heard, and it may be that such was the fact. But it seems strange to me that the trial at least was not made. I can scarcely realize that right-hearted men could be schooled into such confident certainty of the fruitlessness of an effort, and could have their instincts of manly sympathy so well under control, as not to call out when they saw for more than a minute a vessel with her crew moving onward steadily, and with seeming unconsciousness, to inevitable destruction.

The gentlemen who assisted me at the hearing have presented the nautical views of the question so well in the report with which they have favored me while this opinion has been preparing, that I do not think it worth while to pursue the subject farther. The report is in these words:

Sanderson *vs.* Steamer Columbus. The undersigned, assessors in the above case, have duly and carefully considered all the facts in evidence before the court of admiralty, relative to the collision of Steamship Columbus, of Philadelphia, and Schooner Mission, of Edenton, N. C., which occurred December 3d, 1848, near Cape Look-out shoals, on the coast of North Carolina, and are of opinion that the means of avoiding said collision was possessed exclusively by the Columbus. That the Mission was pursuing her proper course, by the wind, on the larboard tack, heading to the northward, and that any change in her course, for the purpose of giving way to the Columbus, was uncalled for, and ought not to have been expected. That it was a clear starlight morning, and the wind moderate. That a vessel of the size of the Mission could have been seen at the time a sufficient distance to have been safely passed on either side, had a proper lookout been kept on board the Columbus, and that the neglect to do so was, in our judgments, the cause of this most disastrous collision, and to which it is to be entirely attributed.

Respectfully submitted,

CHRISTIAN GULAGER,
SILAS PEDRICK.

Philadelphia, Nov. 22, 1850.

I decree for the libellant, and refer it to Mr. Commissioner Heazlitt, to ascertain the amount of damages. Costs to follow the decree.

Per Cur. Decree and order accordingly.

And the said commissioner, afterwards, to wit, on the eighth day of September, A. D. 1853, makes and files his report in the words following, to wit:

In the matter of JOHN SANDERSON vs. STEAMER COLUMBUS. } Collision.

To the honorable John K. Kane, judge of the district court of the United States in and for the eastern district of Pennsylvania.

The Schooner Mission, on a voyage from Guadalupe to Edenton, North Carolina, was run into on the 3d December, 1848, and sunk by the Steamer Columbus. Due proceedings being thereupon had, a decree was entered for the libellant, with reference to commissioner to assess damages.

Under said reference, the undersigned respectfully reports:

That he was attended on the 11th day of December, 1850, and on divers subsequent days, by J. Murray Rush, esquire, proctor for libellant, and by Edward Waln, esquire, proctor for respondents.

The libellant claims:

1. Value of schooner.
2. Value of cargo of shingles.
3. Value of cargo of salt.
4. Interest.
5. Counsel fees.

The respondent objects to the allowance of the various claims:

1. Because there is no legal proof of the ownership of the schooner.
2. There is no evidence that the ownership of the shingles was in Sanderson.
3. There is no evidence that libellant owned cargo lost.
4. That the value of the vessel is not fixed by experts.
5. Interest should not be allowed after July, 1849.

The items of claim will be considered in their order.

The libellant claims for loss of vessel, $5,000.

The question first to be considered, is that of ownership, upon the point suggested by the respondents.

The evidence in support of the claim is to be found in the register of the Schooner Mission, dated 1st July, 1847, pp. 33–'4 of printed book, and in the following depositions:

Joseph A. Spruill, at p. 17, says: "John Sanderson was the owner." At p. 19, on cross examination: "I know that she was built for Mr. Sanderson, and was his when she was ready for sea, and was always reputed to be his property."

Jesse Herrington, p. 21, ship-carpenter: "Mr. Sanderson employed me to work on the Mission. He paid my bills and the bills of the other hands. I know of no other person as owner."

John Bonshell, pp. 22–'3: "Mr. Sanderson was reputed to be the owner." So, too, Charles M. Laverty, p. 28, and Samuel Leight, pp. 31–'2, speak of Sanderson as the owner, or as exercising the right of ownership and control over the vessel.

The allegation of the libel, and the register of the schooner, made on the oath of Mr. Sanderson as owner, being thus sustained, I am relieved from further consideration on that point, and will now consider of the value of the schooner at the time of collision.

The value of the schooner is alleged to be $5,000.

Joseph A. Spruill, p. 17, values the vessel at about $5,000; "saw her while being built—she must have cost $6,000 at least when ready for sea." Jesse Herrington, p. 20: "She was worth $5,000 when she sailed." "Worked on the vessel; (21;) examined her minutely."

John Bonshell: "Shipwright since 1823," pp. 22–'3; "from knowledge of vessels, suppose the cost between $5,000 and $6,000; worked on the schooner." Charles M. Laverty, pp. 28–'9: "Merchant, engaged in building vessels for 12 years. The Mission was worth $4,500 in October, 1848; fixed the value after examining her minutely with a view to purchase on her return."

Samuel Leight, pp. 31–'2: "Examined the vessel when she was building, and after she was launched, in June or July, 1847; was

worth, in October, 1848, $5,000. She was built at considerable expense—about $4,000 for the hull.

Of these witnesses, three estimate her value at $5,000, and one, with a view to purchase, fixes the value at $4,500. All examined her minutely, and most of them were familiar with her construction, and with vessels generally; the estimate is made at the period of her leaving Edenton on a voyage, or a short time prior thereto.

The respondents have not produced any evidence as to the value, and, rejecting the testimony of Bonshell, who speaks of her original cost, I report the value of the schooner to be the amount claimed by the libellant in his libel, say $4,800.

2. Cargo of shingles, said to be reduced to specie, and taken on board at Bassetare, $1,050.

It is objected on behalf of respondents, that there is no evidence that libellant owned cargo of shingles, other than the averment of the libel.

It is not necessary to consider this point, inasmuch as I do not think that the libellant has sustained his claim by testimony.

Albert White, p. 30, saw the Mission at Bassetare in November, 1848; her cargo was shingles, 375,000, worth $1,350 to 1,400, in that island at that time.

Wilson G. Burgess, at p. 42, says, the captain took on board the proceeds of the cargo in specie. I took one of the bags myself—the steward took the other.

This is all the testimony given on the point. There is no evidence to show the amount thus taken on board, or the expenditures and payments made on account of the ship and crew at that place.

Duplicate commissions were issued by the libellants to Bassetare, to obtain the necessary information, but, for some reason, the commissions have not been returned, although the case has been delayed a period of some 22 months for that purpose.

To report any amount of damages for that specific cargo would be merely problematical, and, I submit, not entitled to much consideration. The claim is disallowed, for want of testimony.

The schooner having left Bassetare, proceeded to the island of Rumkey, and took in a cargo of salt, which cargo was on board at the time of collision.

The libellant claims for loss of this cargo. The respondents object, that there was no evidence of ownership in Sanderson. The libel alleges that the cargo (salt) was owned by Sanderson. The answer admits the lading, but denies the ownership.

There is no direct testimony of ownership; but Charles M. Laverty, p. 28, speaks of a custom with himself and other merchants, to make the captain consignee of the cargo, to sell the same and purchase a return cargo, or bring in the money.

That Sanderson had transactions in salt is shown by Samuel Leight on cross examination, p. 32: "I once bought from him, Sanderson, 1,000 bushels of salt from on board the Mission, in April, 1848. I have had no other dealings with the schooner, except 2,000 bushels,

which I was to have taken on the return of the Mission on the voyage on which she was lost;" and on the same page, "Mr. Sanderson wished to take my deposition as to the value of the salt lost."

The evidence presented is merely inferential, and I herewith submit an assessment of damages, in order that if the court should be of opinion that the claim of ownership is substantiated, or if further testimony be taken, the amount may appear in this report.

By the testimony of Alexander Forsyth, p. 37, it appears that the Schooner Mission was at Rumkey in the fall of 1848, and took a full cargo of salt; that she took on board (p. 38) 2,397 bushels, and paid 12½ c. per bushel.

The respondents have produced no evidence on this point.

Mr. Sanderson had contracted to deliver a portion of this cargo at a price greatly exceeding the invoice price; and all the witnesses who speak at all on the subject, testify, that the current market rates were also beyond that paid. The libellant claims this increased price as the measure of damages.

It has been repeatedly held in this and other courts, that the proper measure of damages in cases of tort was the invoice value, with interest, and not the market value at the port of destination.

Upon these decisions, I report the value of the cargo lost,

say 2,397 bushels, at 12½ cents per bushel - - -	$299 62
Add export duty - - - - - - - - -	14 98
Pilotage - - - - - - - - - -	9 00
Deposit and delivery of papers - - - - - -	4 00
Consul verification - - - - - - - -	2 00
Clearance fee - - - - - - - - -	4 80
Tonnage duty - - - - - - - - -	13 44
Value of salt - - - - -	$347 84

The next item for consideration is that of interest.

On the 10th of December, 1850, the parties appeared before the commissioner, and proceeded with their proofs until the 13th December, when libellants issued a duplicate commission to Bassetare. The respondents then gave notice of their readiness to proceed, and if the case was continued, that they would claim an allowance for interest, during the period of adjournment.

On the 5th day of November, 1852, the parties again met, and, the commission being still outstanding, proceeded with their proofs.

It is true, that the delay was not caused by any fault of the proctors for libellant; it is within the knowledge of the commissioner, that the proctors for the libellant expressed great concern about their commission to Bassetare, and reluctance to proceed without them; but the respondent should not be charged with an expense incident to the delay of executing a commission on behalf of libellant, particularly when, in the ordinary course of business, such a commission could be executed

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within three months. It is no fault of either of the parties, but rather the misfortune of the libellant, that the agents selected in Bassetare should have been so remiss in their duty; the loss should not fall on the respondent.

Interest should be allowed from 3d December, 1848, to date of decree, deducting the period of adjournment, say—Interest from 3d December, 1848, to [date of decree] 3d October, 1853, four years, ten months—less interest from December 13, 1850, to November 5, 1852, 22 months, 22 days. Balance of interest, 3 years, 8 days.

The only remaining item is that of counsel fees—$500.

This claim, the commissioner submits, is a matter purely within the discretion of the court, and not embraced in the terms of reference to him.

The following table is submitted as the basis of a final decree:

Value of vessel - - - - - - - - -	$4,800 00
Interest, 3 years, 8 days - - - - - - -	870 40
	$5,670 40
Value of cargo of salt - - - - - - - -	$347 84
Interest, 3 years, 8 days - - - - - - -	62 50
	$410 43
Add vessel as above - - - - - - - -	5,670 40
Total - - - - -	$6,080 74

All which is respectfully submitted, by

CHARLES F. HEAZLITT,

September 8, 1853. *Commissioner.*

Afterwards, to wit, on the ninth day of September, A. D. 1853, the said respondents make and file exceptions to report, in the words following, to wit:

1. Because the commissioner has reported damages to libellant for the value of the cargo on board at the time of the accident, and has assumed the fact, of which there is no evidence whatever, of the ownership of the cargo being in libellant.

2. Because he has allowed libellant too much interest, under the facts and delay of the case. [Exceptions withdrawn.]

And the said libellant afterwards, to wit, on the 15th day of September, 1853, makes and files the exceptions on behalf of libellants, in the words following, to wit:

1. Because he has reported that it was not necessary to consider the question of the value of the shingles, as no evidence had been offered on that point, showing the right of the libellant to recover for the same, or the amount due on the same.

2. Because he has not stated positively that the ownership of the salt was in the libellant, and reported the amount as actually due accordingly.

3. Because the libellant was entitled to full interest from the date of the collision to the date of final decree.

4. Because the invoice value of the salt is stated in the account, with interest, whereas the contract price at the port of delivery, or the current market price, should have been stated.

5. In not reporting counsel fees.

Whereupon, afterwards, to wit, on the thirtieth day of September, A. D. 1853, it is ordered and decreed by the court, that the first and third exceptions on the part of the libellant be sustained, and that the libellant recover for the value of his said vessel the sum of $4,800 00

And for interest thereon, 3 y. 11 m. 8 d., - - - 1,134 40

5,934 40

For value of cargo - - - - - $1,350 00

Interest, 3 y. 11 m. 8 d. - - - - 319 05

1,669 05

$7,603 45

Decree accordingly.

And thereupon, to wit, on the said thirtieth day of September, A. D. 1853, Mr. Waln, proctor for respondents, prays leave to appeal from the decree aforesaid to the next circuit court of the United States in and for said district, in the third circuit, and the same is allowed upon security being given, *sec. req.*

UNITED STATES,
Eastern district of Pennsylvania.

I certify the foregoing to be a true and faithful copy of the records and proceedings of the district court of the United States in and for the eastern district of Pennsylvania, in a certain plea civil and maritime therein lately depending for collision, wherein John Sanderson is the libellant against the Steamer Columbus, James B. Peck, William Heilman, and Edwin H. Frishmuth, respondents, as full and entire as the same remains among the records of the said court in my office.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of the said court, at Philadelphia, this first day of October, A. D. 1853, and in the seventy-eighth year of the independence of the said United States.

[Seal of the Dist. Court U. S., East. Dist. Pa.]

THOMAS L. KANE,
Clerk dist. court U. S.

Whereupon, afterwards, to wit, on the fifth day of November, 1853, all and singular the matters being duly considered, and the arguments of the several proctors being heard, it is ordered, adjudged, and decreed

by the court, that the decree of the said district court be in all things affirmed, and that said appeal be dismissed with costs.

And thereupon, on the twelfth day of November, 1853, the said respondents pray leave to appeal from the said decree to the Supreme Court of the United States, at the city of Washington, which said appeal is allowed upon security being given.

UNITED STATES OF AMERICA,
Eastern district of Pennsylvania, ss.

I certify the foregoing to be a true and faithful copy of the record and proceedings of the circuit court of the United States for the eastern district of Pennsylvania, in the third circuit, in a certain plea, civil and maritime, therein lately depending, wherein John Sanderson was libellant, and the Steamer Columbus and others were respondents.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the said court, at Philadelphia, this thirty-first day of December, A. D. 1853, and in the seventy-eighth year of the independence of the said United States.

[Seal U. S. Cir. Court, East. Dist. Pa.]

GEORGE PLITT,
Clerk circuit court.